

## TITLE 5: BUSINESS LICENSES AND REGULATIONS

<u>Chapter</u>	<u>Section</u>	<u>Subject</u>	<u>Page</u>
<b>5.05</b>		<b>General Provisions</b>	
	§ 5.05.005	Bonds and Insurance. ....	1
	§ 5.05.010	Photographs. ....	1
	§ 5.05.015	Fingerprints.....	1
<b>5.10</b>		<b>Business License Tax</b>	
	§ 5.10.005	Definitions (A-L) (Ord 1524 - 2004).....	3
	§ 5.10.010	Definitions (M-Z). ....	7
	§ 5.10.015	Business License Tax Requirement (Ord 1524 - 2004). ....	11
	§ 5.10.020	Default Tax Amount. ....	11
	§ 5.10.025	Tax Rate Schedules (Ord 1524 - 2004). ....	11
	§ 5.10.030	Annual Adjustment. (Ord 1524 - 2004). ....	17
	§ 5.10.035	Constitutional Apportionment. ....	17
	§ 5.10.040	Exemptions (Ord 1524 - 2004). ....	17
	§ 5.10.045	Issuance of License (Ord 1524 - 2004). ....	18
	§ 5.10.050	Suspension or Revocation of License. ....	18
	§ 5.10.055	Appeals. ....	19
	§ 5.10.060	Separate Licenses. (Ord 1524 - 2004). ....	19
	§ 5.10.065	Determination of Tax Amount by City. ....	19
	§ 5.10.070	Evidence of Doing Business. ....	19
	§ 5.10.075	Replacement License (Ord 1524 - 2004). ....	20
	§ 5.10.080	Display of License. ....	20
	§ 5.10.085	Delinquency. ....	20
	§ 5.10.090	Refunds. ....	20
	§ 5.10.095	Records (Ord 1524 - 2004). ....	21
	§ 5.10.100	License Verification. (Ord 1524 - 2004). ....	21
	§ 5.10.105	Building Inspection Approvals. ....	21
	§ 5.10.110	Coin Operated Machines. ....	21
	§ 5.10.115	Contractors. ....	21
	§ 5.10.120	Cosmetological Establishments. ....	22
	§ 5.10.125	Laundry Agencies. ....	22
	§ 5.10.130	Peddling and Soliciting. ....	22
	§ 5.10.135	Photographic and Voice Recording Machines. ....	22
	§ 5.10.140	Public Garages. ....	22
	§ 5.10.145	Secondhand Dealers. ....	22
	§ 5.10.150	Penalty. ....	22
<b>5.15</b>		<b>Adult Entertainment</b>	
	§ 5.15.005	Purpose. ....	23
	§ 5.15.010	Definitions (Ord 1533 - 2004). ....	23
	§ 5.15.015	Adult Entertainment Permit Requirement. ....	25
	§ 5.15.020	Adult Entertainment Permit Application. ....	25
	§ 5.15.025	Approval or Denial of Adult Entertainment Permit. ....	26
	§ 5.15.030	Location Standards. ....	26
	§ 5.15.035	Design Standards. ....	27
	§ 5.15.040	Operation Standards. ....	27
	§ 5.15.045	Non-transferability. ....	28

<u>Chapter</u>	<u>Section</u>	<u>Subject</u>	<u>Page</u>
	§ 5.15.050	Adult Entertainment Permit Conditions. ....	29
	§ 5.15.055	Adult Entertainment Permit Renewal. ....	29
	§ 5.15.060	Erotic Dancer Permit Requirement. ....	29
	§ 5.15.065	Erotic Dancer Permit Application. ....	29
	§ 5.15.070	Approval or Denial of Erotic Dancer Permit. ....	30
	§ 5.15.075	Confidentiality of Erotic Dancer Information. ....	30
	§ 5.15.080	Presentation of Erotic Dancer Permit. ....	30
	§ 5.15.085	Disciplinary Action. ....	30
	§ 5.15.090	Appeals. ....	32
	§ 5.15.095	Fees. ....	32

## **5.20**

### **Alarm Systems**

§ 5.20.005	Definitions. ....	33
§ 5.20.010	Registration Requirement. ....	34
§ 5.20.015	Direct Alarm Permit. ....	34
§ 5.20.020	Direct Alarm Application. ....	34
§ 5.20.025	Direct Alarm Operation Standards. ....	35
§ 5.20.030	Indirect Alarm Permit. ....	35
§ 5.20.035	Indirect Alarm Application. ....	36
§ 5.20.040	Indirect Alarm Operation Standards. ....	36
§ 5.20.045	Central Station Permit Requirement. ....	37
§ 5.20.050	Automatic Communication Device. ....	37
§ 5.20.055	Automatic Communication Devices Minimum Standards. ....	37
§ 5.20.060	Audible Alarm Requirements. ....	37
§ 5.20.065	Alarm System Standards. ....	37
§ 5.20.070	Inspections. ....	38
§ 5.20.075	Customer Addresses. ....	38
§ 5.20.080	Records. ....	38
§ 5.20.085	Violations. ....	39
§ 5.20.090	Operation Standards. ....	39
§ 5.20.095	False Alarms. ....	39
§ 5.20.100	Tampering. ....	40
§ 5.20.105	Rules and Regulations. ....	40
§ 5.20.110	Exemptions. ....	40

## **5.25**

### **Ambulance Service (Ord 1525 - 2004)**

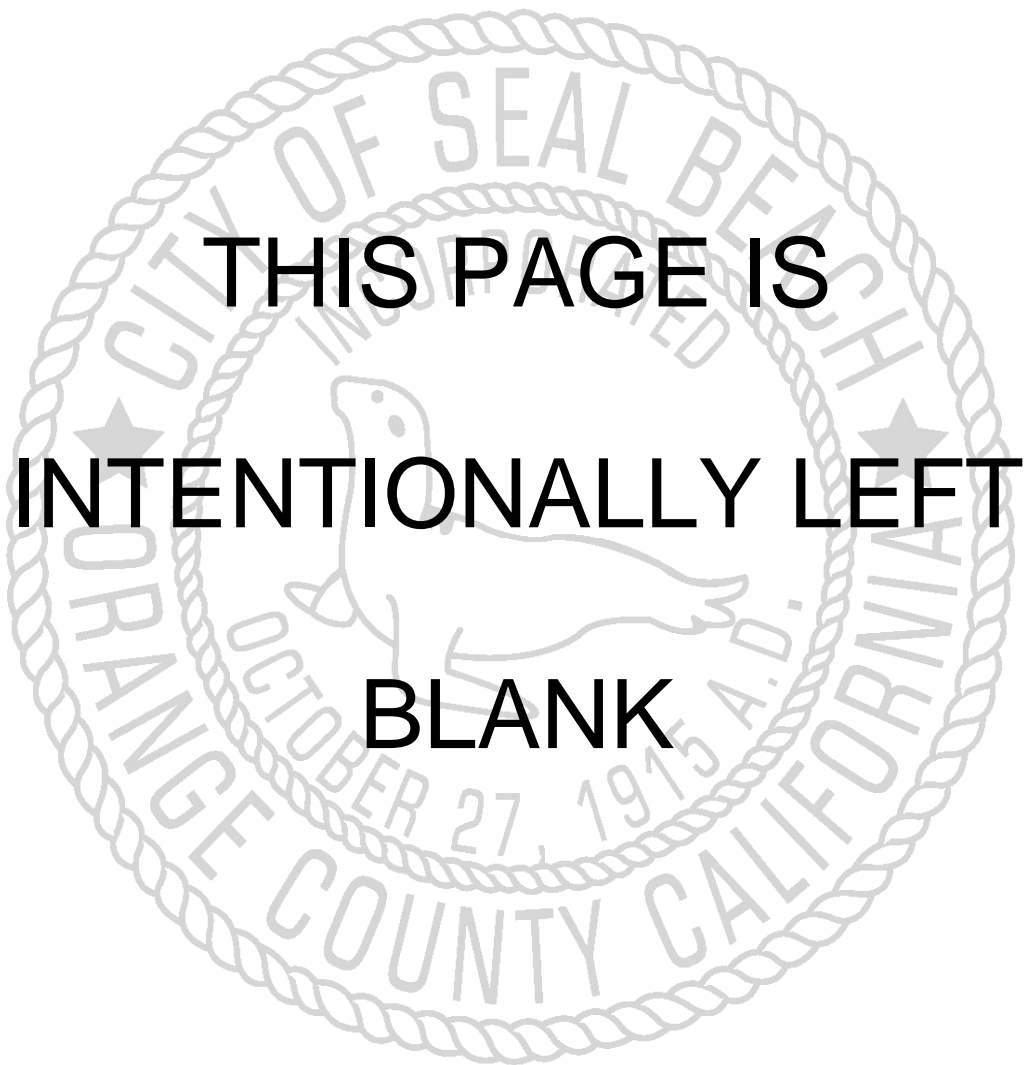
§ 5.25.005	Definitions. ....	41
§ 5.25.010	License Required. ....	42
§ 5.25.015	Transfer and Term of License. ....	42
§ 5.25.020	Applications. ....	43
§ 5.25.025	Investigations. ....	44
§ 5.25.030	Issuance or Denial of License. ....	44
§ 5.25.035	License Suspension or Revocation. ....	45
§ 5.25.040	Appeal to Board of Supervisors. ....	46
§ 5.25.045	Notification. ....	46
§ 5.25.050	Personnel Standards. ....	46
§ 5.25.055	Rates. ....	47
§ 5.25.060	Selection of Ambulance Service Licensees. ....	47
§ 5.25.065	Rules and Regulations. ....	48
§ 5.25.070	Complaints. ....	48
§ 5.25.075	Variance. ....	48

<u>Chapter</u>	<u>Section</u>	<u>Subject</u>	<u>Page</u>
<b>5.30</b>		<b>Charitable Solicitation</b>	
	§ 5.30.005	Definitions.....	49
	§ 5.30.010	Charitable Solicitation Permit Requirement. ....	49
	§ 5.30.015	Exemptions.....	49
	§ 5.30.020	Charitable Solicitation Permit Application. ....	49
	§ 5.30.025	Approval or Denial of Charitable Solicitation Permit. ....	50
	§ 5.30.030	Charitable Solicitation Permit Revocation. ....	50
	§ 5.30.035	Non-transferability. ....	51
	§ 5.30.040	Identification Card.....	51
	§ 5.30.045	Post-Solicitation Report.....	51
	§ 5.30.050	Operation Standards. ....	51
	§ 5.30.055	Appeals.....	52
<b>5.35</b>		<b>Filming Activities</b>	
	§ 5.35.005	Definitions. ....	53
	§ 5.35.010	Film Permit Requirement.....	53
	§ 5.35.015	Film Permit Application.....	53
	§ 5.35.020	Approval or Denial Of Film Permit.....	53
	§ 5.35.025	Film Permit Conditions. ....	53
	§ 5.35.030	Security Deposit. ....	54
	§ 5.35.035	Insurance.....	54
	§ 5.35.040	Disciplinary Action. ....	54
	§ 5.35.045	Exemptions.....	55
	§ 5.35.050	Appeals.....	55
<b>5.40</b>		<b>Food Handling Businesses and Health Services Fees</b>	
	§ 5.40.005	Definitions. ....	57
	§ 5.40.010	Permit Required – Conditions and Terms. ....	58
	§ 5.40.015	Construction, Conversion and Alteration.....	58
	§ 5.40.020	Suspension of Permits. ....	58
	§ 5.40.025	Notice of Violation.....	58
	§ 5.40.030	Hearing. ....	59
	§ 5.40.035	Mobile Food Preparation Units Generally. ....	59
	§ 5.40.040	Additional Requirements for Mobile Food Preparation Units Operating in Multi-Locations in Any Day.....	61
	§ 5.40.045	Suspension for Refusal of Entry.....	62
	§ 5.40.050	Summary Suspension. ....	62
	§ 5.40.055	Supervision of Closing Down Premises. ....	62
	§ 5.40.060	Rules and Regulations. ....	62
	§ 5.40.065	Preemption. ....	63
	§ 5.40.070	Health Services Fee. ....	63
<b>5.45</b>		<b>Massage Establishments/Technicians (Ord 1558 - 2007)</b>	
	§ 5.45.005	Definitions. (Ord 1558 - 2007, Ord 1587 - 2009) .....	65
	§ 5.45.010	Applicability of Chapter.....	65
	§ 5.45.015	(Reserved).....	66
	§ 5.45.020	Out Call Massage Service: Illegal. ....	66
	§ 5.45.025	Massage Establishments: Permit Required. ....	66
	§ 5.45.030	Massage Establishments: Permit Application (Ord 1587 - 2009).....	66

<u>Chapter</u>	<u>Section</u>	<u>Subject</u>	<u>Page</u>
	§ 5.45.035	Massage Establishments: Application Review (Ord 1587 - 2009).....	68
	§ 5.45.040	Massage Establishments: Permit Non-assignable.....	70
	§ 5.45.045	Massage Establishments: Operating Requirements (Ord 1560 - 2007, Ord 1587 - 2009) .....	70
	§ 5.45.050	Massage Establishments: Facilities (Ord 1560 - 2007, Ord 1587 - 2009) .....	72
	§ 5.45.055	Massage Establishments: Inspection. ....	73
	§ 5.45.060	Massage Establishments: Change of Location or Name; Expansion.....	73
	§ 5.45.065	Reserved. ....	74
	§ 5.45.070	Reserved. ....	74
	§ 5.45.075	Massage Technicians: Permit Required. (Ord 1587- 2009) .....	74
	§ 5.45.080	Massage Technicians: Permit Application. ....	74
	§ 5.45.085	Massage Technicians: Application Review. ....	75
	§ 5.45.090	Massage Technicians: Prohibited Conduct. ....	76
	§ 5.45.095	Massage Establishments and Technicians: Notice of Violations and Permit Suspension or Revocation.....	77
	§ 5.45.100	Permit Renewal. ....	78
	§ 5.45.105	Appeal. ....	78
	§ 5.45.110	Procedure for Hearing on Appeal.....	78
	§ 5.45.115	No Refund of Fee. ....	79
	§ 5.45.120	Return of Permit. ....	79
<b>5.50</b>		<b>Mobile X-Ray Units</b>	
	§ 5.50.005	Definition.....	81
	§ 5.50.010	Permit Requirement. ....	81
	§ 5.50.015	Investigation. ....	81
	§ 5.50.020	Approval or Denial of Permit. ....	81
	§ 5.50.025	Permit Expiration. ....	81
	§ 5.50.030	Operation Standards. ....	81
<b>5.55</b>		<b>Oil and Gas Production</b>	
	§ 5.55.005	Scope. ....	83
	§ 5.55.010	Definitions.....	83
	§ 5.55.015	License Tax. ....	84
	§ 5.55.020	Quarterly Statement. ....	86
	§ 5.55.025	Records. ....	87
	§ 5.55.030	Delinquency.....	87
	§ 5.55.035	Minerals.....	87
	§ 5.55.040	Existing Wells. ....	87
	§ 5.55.045	Prohibited Conduct. ....	87
	§ 5.55.050	Nuisance Declaration. ....	88
	§ 5.55.055	Drilling Regulations.....	88
	§ 5.55.060	Preliminary Exploratory Area.....	88
	§ 5.55.065	Final Exploratory Area.....	89
	§ 5.55.070	Production in Developed Areas.....	90
	§ 5.55.075	Permit Requirement. ....	90
	§ 5.55.080	Permit Application.....	91
	§ 5.55.085	Approval or Denial of Permit. ....	91
	§ 5.55.090	Operation Standards. ....	92
	§ 5.55.095	Additional Standards. ....	93

<u>Chapter</u>	<u>Section</u>	<u>Subject</u>	<u>Page</u>
	§ 5.55.100	Permit Suspension or Revocation. ....	95
	§ 5.55.105	Subsidence. ....	95
	§ 5.55.110	Oil Drilling. ....	96
<b>5.60</b>		<b>Public and Club Dances</b>	
	§ 5.60.005	Definitions. ....	97
	§ 5.60.010	Exemptions. ....	97
	§ 5.60.015	Permit Requirement. ....	97
	§ 5.60.020	Permit Application. ....	97
	§ 5.60.025	Approval or Denial of Permit. ....	97
	§ 5.60.030	Public and Club Dance Fees. ....	98
	§ 5.60.035	Non-transferability. ....	98
	§ 5.60.040	Disciplinary Action. ....	98
	§ 5.60.045	Inspections. ....	98
	§ 5.60.050	Age Restrictions. ....	98
	§ 5.60.055	Re-entry Prohibited. ....	98
	§ 5.60.060	Lighting, Food and Drink. ....	98
	§ 5.60.065	Operating Hours. ....	98
	§ 5.60.070	Parking Area. ....	99
	§ 5.60.075	Rules of Conduct. ....	99
	§ 5.60.080	Security Guards. ....	99
<b>5.65</b>		<b>Taxicabs</b>	
	§ 5.65.005	Definitions. ....	101
	§ 5.65.010	City Authorization Required. ....	101
	§ 5.65.015	Driver Permit Required. ....	101
	§ 5.65.020	Taxicab Permit Required. ....	102
	§ 5.65.025	Company Permit Required. ....	102
	§ 5.65.030	Application for Permits. ....	102
	§ 5.65.035	Testing for Controlled Substances and Alcohol. ....	102
	§ 5.65.040	Insurance Required. ....	102
	§ 5.65.045	Non-transferability. ....	102
	§ 5.65.050	Equipment. ....	102
	§ 5.65.055	Mechanical Condition. ....	102
	§ 5.65.060	Operational Requirements. ....	102
	§ 5.65.065	Rates and Charges. ....	103
	§ 5.65.070	Separate from Business Licensing. ....	103
<b>5.70</b>		<b>Miscellaneous Business Regulations</b>	
	§ 5.70.005	Fortune Teller/Psychic. ....	105
	§ 5.70.010	Secondhand Aircraft Parts. ....	105
	§ 5.70.015	Collection Agencies. ....	105
	§ 5.70.020	Entertainment Cafes. ....	106
	§ 5.70.025	Medical Marijuana Dispensaries (Ord 1580 - 2008) ....	106
	§ 5.70.030	Miniature Trains. ....	107
	§ 5.70.035	Peddling and Soliciting. ....	107
	§ 5.70.040	Shooting Galleries. ....	107

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## **Chapter 5.05 General Provisions**

### **§ 5.05.005 Bonds and Insurance.**

A. Whenever any bond or insurance policy is required to be filed in connection with the issuance of a license or permit pursuant to this title, such license or permit shall not be effective until the bond or insurance policy has been approved by the city attorney as to sufficiency and form. If the bond or insurance policy becomes ineffective during the term of such license or permit, then the license or permit shall automatically be suspended until a new bond or insurance policy is furnished and approved by the city attorney as to sufficiency and form.

B. The city and its officers, employees and agents shall be named as additional insured under any liability insurance policy required by this title, which policy shall not be subject to cancellation without 30 days written notice to the city. The liability on any surety bond deposited with the city pursuant to this title may be terminated upon the surety's filing of 30 day advance written notice with the city clerk. In no case shall the termination of liability by the surety on any bond affect any liability incurred prior to the date of termination.

### **§ 5.05.010 Photographs.**

Photographs required to be furnished in connection with a license or permit application pursuant to this title, whether initial or renewal shall be in good condition and shall have been taken within 6 months prior to the date the application is filed.

### **§ 5.05.015 Fingerprints.**

Whenever fingerprints are required to be furnished in connection with a license or permit application pursuant to this title, the applicant shall bear the cost of providing the fingerprints and the application fee shall include the actual cost incurred by the city in performing a criminal background check of the applicant.

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## **Chapter 5.10 Business License Tax**

### **§ 5.10.005 Definitions (A-L).**

For the purpose of this chapter, the following words and phrases shall mean:

**A. Advertising:**

1. The operation or maintenance of a billboard, signboard, window display, motion picture, theater curtain, stereopticon, biograph, moving picture machine or vehicle displaying commercial advertising matter thereon.

2. The distribution of commercial handbills.

3. The distribution of merchandise samples.

"Advertising" does not include the following:

1. Delivery of commercial handbills or samples to the premises of the business being promoted by such handbills or samples.

2. Operation or maintenance of on-premises advertising displays as defined by Business and Professions Code Section 5490.

3. Newspapers of general circulation.

**B. Aircraft Repair Shop:** a business that repairs, alters, remodels, overhauls or paints aircraft or parts thereof.

**C. Arcade:** a business that operates or exhibits a phonograph, graphophone, talking machine, kinetoscope, biograph, projectoscope, microscope, lung tester, muscle tester, galvanic batter, weighing machine or similar coin-operated machine.

**D. Auctioneer:** a person engaged in the business of selling or offering for sale any property at public auction or by public outcry.

**E. Auto for Hire:** a motor vehicle that for monetary consideration is used for the transportation of passengers over public highways on undefined routes. "Auto for hire" includes the leasing of a motor vehicle, whether with or without driver, used for carrying passengers over public highways on an undefined route having a terminus inside the city. "Auto for hire" also includes the leasing of a motor vehicle used primarily for the transportation of property over public highways on an undefined route.

**F. Auto Parking Space:** a vacant lot on which automobiles are lawfully parked by the hour, day, week or month for monetary consideration. "Auto parking space" does not include a lot maintained exclusively for patrons of any business where no monetary consideration is charged for the parking.

**G. Auto Parts, Service and Equipment Business:** a business that buys and sells automobile replacement parts and accessories. "Auto parts, service and equipment business" includes the performance of such machine work and assembling as is necessary to install parts or equipment. "Auto parts, service and equipment business" does not include duly licensed garages or repair shops.

H. Auto Repair Shop: a business that repairs, remodels, overhauls, reconditions or paints automobiles or parts thereof. "Auto repair shop" does not include the following activities performed at a gasoline station or service station:

1. Tire repair or changing.
2. Spark plug or battery cleaning, charging or replacement.
3. Automobile washing.
4. Fan belt, light bulb or radiator hose replacement.
5. Brake adjustment.
6. Similar services that commonly are completed with the customer present and do not require a qualified automobile mechanic.

I. Average Number of Individuals Employed: the average number of persons employed daily by the business for the year period ending on the 30th day prior to the due date of the license. This figure shall be determined by ascertaining the total number of service hours performed by all employees during such period and dividing that amount by the number of service hours constituting a day's work, and by again dividing the sum thus obtained by the number of business days in such period. Fractions of numbers shall be excluded for purposes of these calculations.

J. Boarding Kennel: a business that houses dogs, cats or other small animals.

K. Boat for Hire: a boat that for monetary consideration is used to transport passengers from a pier, wharf or landing place in the city. "Boat for hire" includes the leasing of a boat, whether with or without an operator.

L. Building Contractor: a person engaged in the business of constructing, altering, repairing, removing or demolishing any building, structure or portion thereof. "Building contractor" includes a person erecting scaffolding or other structures in connection with work upon any building or structure. The following do not constitute a "building contractor" for purposes of this chapter and are exempt from the business license tax requirement:

1. A salaried employee of a duly licensed building contractor.
2. A licensed architect or registered civil engineer who acts solely in the capacity of an architect or civil engineer.
3. An owner of a building who personally works upon such building. This exemption shall not apply if the building is being erected for purposes of sale.

M. Business: professions, trades and occupations of every kind of calling whether or not carried on for profit.

N. Carnival: a business consisting of sideshows, vaudeville, ferris wheels, merry-go-rounds, riding devices or similar amusement devices.

O. Cement Contractor: a person engaged in the business of repairing, placing or installing poured and tamped Portland cement concrete in connection with any foundation, pier, floor, structural framework, retaining wall, coping, step, stairway, gutter, curbing, walk, driveway,

pavement or other type of plain or reinforced concrete construction. The following do not constitute a “cement contractor” for purposes of this chapter and are exempt from the business license tax requirement:

1. A salaried employee of a duly licensed cement contractor.
2. A duly licensed and authorized building contractor if such person is working upon a public street, alleyway, sidewalk, curb, gutter, storm drain or similar public improvement.
3. A resident of a single-family dwelling who personally works upon such dwelling or an accessory building thereof.

P. Circus: a business consisting of a tent, canvas or open-air enclosure exhibiting feats of horsemanship, trained animals, clowns, acrobatic performances or similar forms of skill or amusement.

Q. Collection Agency: a business that collects accounts receivable for another business. “Collection agency” includes any business that uses a fictitious name in collecting its own accounts receivable with the intention of conveying to the debtor that a third party has been employed to collect such accounts. “Collection agency” does not include the following: attorneys; banks; abstract companies doing an escrow business; real estate brokers making collections arising out of real estate transactions; or merchant nonprofit credit associations.

R. Collector: the director of administrative services/treasurer.

S. Commission Merchant or Broker: a person who by authority acts as an intermediary, representative, or agent, on behalf of, or in the place of another person in the purchase or sale of commodities, insurance, real or personal property, stocks, bonds, securities, notes, negotiation of contracts for personal or professional services or appearances and receives compensation, either directly or indirectly, in the form of commission or otherwise, whether or not the operation of such business customarily includes the actual possession, custody or control of the foregoing. (Ord. No. 1524)

T. Country Club Golf Course: a privately owned golf course. “Country club golf course” includes the operation of a restaurant, coffee shop, snack bar, cocktail lounge, pro shop, the offering and giving of golf lessons, the operation of a driving range open to the public and retail sales of articles normally associated with a golf course. “Country club golf course” does not include an entertainment cafe.

U. Dancing Academy: a business that provides dancing lessons.

V. Dog and Cat Hospital: a business that provides medical care for dogs, cats and other small animals.

W. Electrical Contractor: a person engaged in the business of performing work requiring an electrical permit. The following do not constitute an “electrical contractor” and are exempt from the business license tax requirement:

1. A salaried employee of a duly licensed electrical contractor.
2. An owner of a building who personally works upon such building. This exemption shall not apply if the building is being erected for purposes of sale.

X. Employment Bureau: a business that secures employment for any person or furnishes information regarding situations of employment.

Y. Engage in the Business: the conducting, managing or carrying on of any business.

Z. Entertainment Cafe: a business that provides instrumental music, singing, floor show, vaudeville, cabaret or similar entertainment. "Entertainment Cafe" includes a business that allows dancing by patrons.

AA. Fair: a business consisting of displays of produce, livestock or merchandise together with amusement attractions and concessions.

BB. Fixed Place of Business: a place actually occupied by a person engaged in a business and at which a large part of such business is transacted and the records of such business are kept.

CC. Fortune Teller/Psychic: a person that purports to have extra-sensory powers and that engages in the business of providing forecasting of future events.

DD. Grocery Bus: a motor vehicle that carries, and from which is sold at retail, foodstuffs for human consumption.

EE. Gross Receipts: the total amount actually received or receivable for the performance of any act or service, whether or not such act or service is done in connection with the sale of materials, goods, wares or merchandise. "Gross receipts" includes all receipts, commissions, cash credits, and property of any kind or nature, without any deduction therefore on account of the cost of the property sold, the cost of material used, labor or service costs, interest paid or payable, or losses or other expenses.

As to a business established outside the city but maintaining a local office within the city, "gross receipts" means the total sales or receipts attributable to the local office. In the event separate records are not maintained for such office, the business license tax shall be based upon an amount that bears the same proportion to the total gross receipts of the business as the cost of maintaining the local office bears to the total cost of maintaining the business. In the event the local office performs administrative or storage functions in connection with sales or services rendered elsewhere, the business license tax shall be based on an amount equivalent to the volume of business that shall be computed by determining the total cost of maintaining such office. The total cost of maintaining the local office includes without limitation: wages; salaries; commissions; bonuses; rent; telephone; postage; utilities; janitorial and other expenses allocated for maintenance.

"Gross Receipts" does not include:

1. Cash discounts allowed and taken on sales.
2. Credit allowed on property accepted as part of the purchase price and which property may later be sold.
3. Any tax required by law to be included in or added to the purchase price and collected from the consumer.
4. Such part of the sale price of property returned by consumers upon rescission of the sale contract as is refunded either in cash or by credit.

5. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for who collected. This exemption applies only if the agent or trustee has furnished the city with the names and addresses of the others and the amounts paid to them.

6. Receipts of refundable deposits, except that refundable deposits forfeited and taken into income of the business shall not be excluded.

FF. Itinerant Vendor: a person engaged in the business of selling goods for a period of not more than 90 days. An "itinerant vendor" shall not be relieved from the requirements of this chapter by reason of conducting such business in connection with a local dealer, trader, merchant or auctioneer.

GG. Junk Collector: a person having no fixed place of business and engaged in the business of collection, buying, selling or otherwise dealing in old rags, sacks, bottles, cans, papers, metal or other articles commonly known as junk.

HH. Lathing Contractor: a person engaged in the business of installing, patching or repairing wood lath, metal lath, plaster board or any other similar materials. The following do not constitute a "lathing contractor" for purposes of this chapter and are exempt from the business license tax requirement:

1. A salaried employee of a duly licensed lathing contractor.
2. A resident of a single-family dwelling who personally works upon such dwelling or an accessory building thereof.

II. Laundry: a business that cleans wearing apparel. "Laundry" does not include an establishment where the work is performed by members of the family, or where not more than 2 persons are employed for compensation.

JJ. Laundry Agency: a business that cleans goods of a textile nature.

KK. Length of Boat for Hire: the distance between the perpendiculars as registered in United States Custom House records or as determined by actual measurement for any boat not so registered.

LL. Location: an individual, contiguous site of a business. If a business is sited on multiple contiguous parcels, the combined parcels shall constitute one location. (Ord. No. 1524)

#### **§ 5.10.010 Definitions (M-Z).**

A. Masonry Contractor: a person engaged in the business of laying, setting, altering or repairing brick, stone, hollow tile, flue lining, pre-cast concrete units, gypsum partition tile units, structural glass or terra cotta in connection with a wall, partition, chimney or flue, boiler settings, veneering or furring or any other work requiring a masonry permit. The following do not constitute a "masonry contractor" for purposes of this chapter and are exempt from the business license tax requirement:

1. A salaried employee of a duly licensed masonry contractor.
2. A resident of a single-family dwelling who personally works upon such dwelling or an accessory building thereof.

B. Massage: any method of treating the external parts of the body for remedial, health, or hygienic purposes. "Massage" includes without limitation: acupuncture; acupressure; aromatherapy; reflexology; treatment by means of pressure, friction, stroking, kneading, rubbing, tapping or pounding; treatment by means of stimulating the external parts of the body with a mechanical or electrical apparatus; treatment with rubbing alcohol, lineaments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations; and treatment by means of baths, vapor, shower, electricity or magnetism.

C. Massage Establishment: any establishment where any person engages in, conducts, or carries on the business of giving massage.

D. Medicine Show: the using of lecture or entertainment to attract an audience to which is sold or given medicine, a surgical or medical appliance, food, beverage or any other substance promoted as being healthful.

E. Money Lender: a person engaged in the business of lending money. "Money lender" does not include any state or national bank exempt from local taxation pursuant to Article XIII, Section 27 of the California Constitution.

F. Motor Scooter: a motor-propelled vehicle designed to travel on not more than 3 wheels, which wheels do not have an inside rim diameter in excess of 12". "Motor scooter" does not include self-propelled wheel chairs or invalid tricycles.

G. Newspaper of General Circulation: a newspaper meeting the definition of Government Code Section 6000.

H. Oil Tool Exchange: the business of buying, selling or otherwise dealing in oil well equipment.

I. Painting, Paperhanging and Decorating Contractor: a person engaged in the business of applying paint, wallpaper, or decorations upon a building or structure. The following do not constitute a "painting, paperhanging and decorating contractor" for purposes of this chapter and are exempt from the business license tax requirement:

1. A salaried employee of a duly licensed painting, paperhanging and decorating contractor.

2. An owner of a building who personally works upon such building. This exemption shall not apply if the building is being erected for purposes of sale.

J. Peddling: the business of going from place to place selling goods by the taking of an order and the making of a delivery concurrently. "Peddling" includes the transportation of goods that have not been sold to or ordered by a buyer prior to such transportation, and which goods are intended to be offered for sale and delivery to the public. "Peddling" does not include the delivery of goods by a person engaged in the business of selling such goods at a fixed place of business and which goods have been ordered to be so delivered prior to such delivery. Notwithstanding the preceding, "peddling" includes the delivery of goods at the time of or within a period of 2 hours from the time of obtaining such order for delivery, unless the order was placed by the buyer at a fixed place of business of the seller.

K. Plastering Contractor: a person engaged in the business of applying, patching or repairing any plaster, stucco, ornamental plaster, run work or staff ornaments, or other work requiring a plastering permit. The following do not constitute a "plastering contractor" for purposes of this chapter and are exempt from the business license tax requirement:

1. A salaried employee of a duly licensed plastering contractor.
2. An owner of a building who personally works upon such building. This exemption shall not apply if the building is being erected for purposes of sale.

L. Plumbing Contractor: a person engaged in the business of work requiring a plumbing permit. The following do not constitute a "plumbing contractor" for purposes of this chapter and are exempt from the business license tax requirement:

1. A salaried employee of a duly licensed plumbing contractor.
2. An owner of a building who personally works upon such building. This exemption shall not apply if the building is being erected for purposes of sale.
3. A person who constructs, alters, or repairs vitrified clay tile house sewers, cesspools, chimneys, septic tanks, or hot water vents.

M. Public Dance Hall: a business where public dancing is held or carried on. "Public dance hall" does not include private residences.

N. Public Garage: a business providing auto parking spaces to the public.

O. Real Estate Broker: a person engaged in the business of selling, buying, soliciting purchasers of, or negotiating the purchase, sale, lease, exchange or financing of real estate. "Real estate broker" includes a person engaged in the business of collecting rent from real property for another.

P. Refrigeration Contractor: a person engaged in the business of selling, installing, repairing or servicing commercial refrigeration or any equipment that is customarily used in or as a part of commercial refrigeration.

Q. Riding Academy: the business of teaching horseback riding. "Riding academy" includes the renting of horses, ponies or donkeys for riding purposes.

R. Roofing Contractor: a person engaged in the business of applying, patching or repairing any roof covering a building or structure, which roof covering consists wholly or partially of either asphalt impregnated felt or composition roofing or shingles, asbestos-impregnated felt roofing or shingles, natural slate units or burned clay, or cement tile units. "Roofing contractor" includes a person who performs any other work requiring a roofing permit besides the installation, alteration or repair of wood shingle or shale roofs. The following do not constitute a "roofing contractor" for purposes of this chapter and are exempt from the business license tax requirement:

1. A salaried employee of a duly licensed roofing contractor.
2. An owner of a building, or an employee of such owner, who furnishes no materials and does the following:
  - a. Applies cold coatings, paint coats or hot asphalt mopped coatings on the roof of any building of such owner.
  - b. Patches, repairs or re-roofs not in excess of 5 squares of the area of any building of such owner.

c. Roofs or re-roofs a single-family dwelling of such owner or an accessory building thereof located upon the same premises, when such premises are used solely as the place of residence of such owner and not for income purposes.

S. Securities:

1. All shares or other interests or rights into which the capital, capital stock or property of companies or rights of stockholders or members thereof are divided, including all treasury shares and shares of their own capital stock purchased or otherwise acquired by companies upon delinquent assessment sales or in any other lawful manner, and all certificates and other instruments issued by them on their authority, evidencing or representing such shares, interests or rights.

2. All bonds, debentures and evidences of indebtedness issued by any company.

3. Any instrument issued or offered to the public by any company, evidencing or representing any right to participate or share in the profits or earnings or the distribution of assets of any business carried on for profit. This definition does not include the following: bills of exchange and promissory notes not offered to the public by the drawer, maker or underwriter thereof; or mortgages and deeds of trust of property situated in this state, executed to secure the payment thereof.

T. Sewer Contractor: a person engaged in the business of performing any work requiring a sewer permit. The following do not constitute a sewer contractor” for purposes of this chapter and are exempt from the business license tax requirement:

1. A salaried employee of a duly licensed sewer contractor.

2. A person who installs, alters, or repairs a cast-iron house sewer leading from a point 2’ outside of a building or structure to the lot line or a cesspool or septic tank.

U. Signcraft: sign painting, lettering, inscribing letters or figures on the surface of any building, glass, metal, wood or composition material, or on the surface of any material of any description, or molding of letters of metal, or tile, or carving letters of wood, or manufacturing letters of paper or any other materials for sign purposes, or building, erecting or repairing signs upon the surface of the ground, or upon the surface or roof of any building or structure, or attaching letters to the surface of any such signs.

V. Social Club: a non-profit philanthropic, eleemosynary or fraternal corporation, association or organization that promotes literature, science, politics, good fellowship, philanthropy or the social or physical welfare, benefit or amusement of the membership and that maintains a club room or club house.

W. Soliciting: the business of traveling from house to house taking orders for goods or advertising for future delivery.

X. Tile and Marble Contractor: a person engaged in the business of setting, altering or repairing composition tile, marble, granite or other finished stone materials when used for floors, walls, wainscots, ceilings, borders, bulkheads, counters, drain boards or mantels. The following do not constitute a “tile and marble contractor” for purposes of this chapter and are exempt from the business license tax requirement:

1. A salaried employee of a duly licensed tile and marble contractor.



2. A resident of a single-family dwelling who personally works upon such dwelling or an accessory building thereof.

3. A person who installs rubber tiling, linoleum, cork, composition flooring or similar materials not ordinarily used by marble or tile contractors.

Y. Truck Transportation and Baggage Business: the business of driving trucks for the transportation of baggage, express, freight, household goods, merchandise, materials or other personal property.

Z. Weather stripping contractor: a person engaged in the business of installing material to cover the joint of a door, window or similar opening for the purpose of excluding rain, drafts or other undesirable aspects of the outside atmosphere. The following do not constitute a "weather stripping contractor" for purposes of this chapter and are exempt from the business license tax requirement:

1. A salaried employee of a duly licensed weather stripping contractor.

2. An owner of a building who personally works upon such building. This exemption shall not apply if the building is being erected for purposes of sale.

#### **§ 5.10.015 Business License Tax Requirement.**

A. It shall be unlawful for any person to carry on any business in the city without first having procured a business license by paying the business license tax hereinafter prescribed.

B. Business license taxes shall be paid in advance in lawful money of the United States of America in accordance with the following due dates unless otherwise specifically provided herein:

1. Daily Taxes. Due on the effective date of the license.

2. Annual Taxes. Due on the first day of July.

3. New Businesses. Business license taxes for new businesses commenced after the first day of July are due within 30 days of the commencement date. The tax for a new business shall be the annual amount unless the business commences in the second half of a fiscal year, in which case the tax shall be half of the annual amount. In subsequent years taxes shall be due on the 1st day of July. (Ord. No. 1524)

#### **§ 5.10.020 Default Tax Amount.**

The business license tax for fiscal year 1988-89 shall be \$100 for each business, or the amount computed in accordance with the tax rate schedules of this chapter, whichever is greater.

#### **§ 5.10.025 Tax Rate Schedules.**

A. The following businesses shall pay an annual flat rate business license tax in the amount of \$100:

1. Aircraft repairs shop.

2. Arcade.

3. Auctioneer.

4. Auto repair shop and auto parts, service and equipment business unless licensed in conjunction with the sale of new and used vehicles.
5. Auto parking space for hire.
6. Barber shop.
7. Bathhouse (public).
8. Christmas tree and ornament sales at a fixed place of business except in conjunction with sales from a location in which a valid general merchandise business license certificate is in effect.
9. Christmas tree sales (temporary) for a period not to exceed 45 days between November 1st and January 1st.
10. Cleaning and pressing establishments. This includes without limitation laundries and dry cleaning, dyeing and blocking of wearing apparel and fabrics. (Ord. No. 1524)
11. Cold storage plant storing food and dairy products.
12. Collection agency.
13. Commercial/industrial rental of 3 or more units. (Ord. No. 1533)
14. Contractors. This includes without limitation: building contractor; cement contractor; electrical contractor; lathing contractor; masonry contractor; painting, paperhanging and decorating contractor; plastering contractor; plumbing contractor; refrigeration contractor; roofing contractor; sewer contractor; tile and marble contractor; and weather stripping contractor.
15. Cosmetology establishment and cosmetic treatments outside a fixed place of business.
16. Dancing academy.
17. Day nurseries, kindergartens and private school.
18. Directory publication.
19. Dog and cat hospital and boarding kennel.
20. Eating establishment.
21. Employment bureau.
22. Handbill distribution.
23. Ice sale, delivery of ice, and ice vending machine.
24. Junk dealer.
25. Laundry agency and laundry outside the city where laundry is placed, collected and delivered in the city.

26. Linen supply business except if in possession valid license for laundry.
27. Livery stable and riding academy.
28. Lockers and locker storage, excluding athletic, golf and country clubs, gymnasiums and bathhouses.
29. Massage establishment.
30. Miniature trains for hire (\$100.00 for each train).
31. Motels, hotels and rooming houses in which the rental term is day to day or week to week.
32. Motion picture theater, live theater or vaudeville.
33. Municipal market sales.
34. Photographer.
35. Private patrol system.
36. Professional services. This includes without limitation: doctors; dentists; lawyers; accountants; veterinarians; engineers; architects; real estate brokers; sale of securities and consultants.
37. Public dance hall.
38. Public garage.
39. Repairing, processing, or servicing goods, wares, merchandise or articles for others if not specifically required to be licensed under other provisions of this chapter.
40. Residential rental of 6 or more units.
41. Repossession agency.
42. Retail sales establishment not specifically required to be licensed under any other provision of this chapter.
43. Sales representing or advertised as bankruptcy, liquidation or close-out sale.
44. Secondhand dealer.
45. Self-employed persons not specifically required to obtain a license under any other provision of this chapter.
46. Selling goods, wares or merchandise at wholesale not specifically governed under any other provision of this chapter.
47. Shoeshine stand or parlor.
48. Shooting gallery.

49. Signcraft, except that no person in the regular employment of another holding a valid license pursuant to this chapter shall be required to obtain a license.

50. Social club.

51. Tailor shop.

52. Trade school and business college.

53. Truck transportation and baggage business.

54. Undertaker.

55. Warehouse.

56. Wedding chapel.

B. All persons engaged in the following businesses shall pay an annual flat rate business license tax of \$200:

1. Advertising service (except handbill distribution).

2. Amusement park.

3. Entertainment cafe.

4. Animal, fish and reptile shows.

5. Commission merchants or broker.

6. Tattooing.

C. All persons engaged in the following businesses shall pay an annual flat rate business license tax as set forth below (in no event shall the annual tax be less than \$100):

1. Aircraft for hire - \$100 for the first aircraft and \$20 for each additional aircraft.

2. Beach umbrella and equipment rental stands - \$100 for the first stand and \$20 for each additional stand.

3. Billiard parlor and bowling alley - \$100 plus \$10 for each table or alley over 10.

4. Boat rental - \$100 for each boat less than 25 feet in length, plus \$8.00 per foot for each boat exceeding 25 feet in length.

5. Bottled water sales (retail), excluding eating establishments, confectionery stores or similar businesses - \$100 for the first vehicle used in carrying on such business plus \$25 for each additional vehicle so used.

6. Boxing match (professional contest or exhibition) - \$1,000.

7. Carnivals and fairs, excluding those operated by school organizations, churches, or other nonprofit organizations for charitable purposes - \$6 per day for each game, exhibition, show recreational device, or concession booth.

8. Circus - \$700 for the first day and \$400 for each day thereafter.

9. Fire sale, excluding sales where the seller was the legal owner of the merchandise to be sold at the time of such fire - \$1,200.

10. Fortune teller/psychic - \$750.00 the first year and \$500 thereafter.

11. Grocery bus - \$1,000.

12. Herb doctors - \$150 plus \$20 for each additional partner.

13. Junk collector - \$100, which includes the right to use one vehicle or boat; plus \$20 for each additional vehicle or boat used.

14. Medicine show - \$600.

15. Milk distribution - \$100 plus \$10 for each vehicle in excess of one.

16. Money lender - \$150.

17. Motion picture or photoplay filming or production - \$50 per day, except persons with a fixed place of business in the city - \$150.

18. Oil business - as set forth in this title.

19. Peddler and itinerant vendor -

a. Foodstuffs not otherwise provided for - \$100 plus \$60.00 for each vehicle in excess of one.

b. Medicine - \$600.

c. All others unless otherwise required to be licensed - \$100 includes the use of one vehicle or boat, plus \$100 for each additional vehicle or boat.

20. Sanitariums (including rest home, convalescent home or home for the aged) that provide care for more than 3 persons at a time - \$100 plus \$2 for each patient in excess of 3, based on the average number of patients per day, computed monthly.

21. Selling club plans, including sale of membership in any club or cooperative association and sale of discount coupon books - \$400.

22. Soliciting, canvassing or taking orders for goods or advertising, excluding representatives of an established or fixed place of business in the city who submits an affidavit to the collector not less than 48 hours before such solicitation - \$200 or \$10 per day.

23. Vehicles for hire -

a. Vehicles that seat less than 16 people - \$100 per vehicle.

b. Vehicles that seat more than 15 people - \$120 per vehicle.

c. Vehicles that are designed or used primarily for transportation of property where available for lease or rental without the driver - \$50 for the first vehicle plus \$20 for each additional vehicle.

d. Ambulances or invalid coaches - \$50 for 1st vehicle plus \$20 for each additional vehicle.

e. Motor scooters - \$100 plus \$4 for each vehicle in excess of 5 vehicles.

24. New and used car sales, such license also authorizes the holder to repair such vehicles and sell motor vehicle parts and accessories - \$150.

25. Vending machine -

a. Merchandise dispensing - \$20 per machine.

b. Jukebox and amusement machines, including electronic games and pinball machines – \$30 per machine.

c. Photographic and voice recording machines - \$100 for the first 5 machines, plus \$20 for each additional machine.

26. Wrestling - \$600.

D. All persons engaged in the following businesses shall pay an annual business license tax based on gross receipts (in no event shall the business license tax be less than \$100):

1. Country club golf course - 40¢ per \$1,000 of total gross receipts.

2. Manufacturing - 40¢ per \$1,000 of total gross receipts. This includes without limitation every person manufacturing, processing, fabricating, designing, engineering any product, commodity, airplane, or ship, selling any such product at wholesale or to jobbers; or selling any such product at retail; or selling any such product at both wholesale and at retail; or any and every person contracting for or agreeing to manufacture, process, fabricate, design or engineer any product, commodity, airplane, ship, machine, vehicle, instrumentality, tool or other thing for fee, charge, valuable consideration or otherwise agreed upon sum of money.

E. All persons engaged in the business of commercial/industrial rentals of no more than 2 units shall pay an annual business license tax that is ½ the amount of the annual business license tax for commercial/industrial rentals of 3 or more units. (Ord. No. 1533)

F. All persons 65 and over engaged in any home occupation, as that term is defined in the zoning ordinance, shall pay an annual flat rate tax of \$50, provided that the annual income derived from such home occupation does not exceed \$10,000 in any calendar year. In order to qualify for this reduced rate, licensees shall submit a copy of their most recent tax return to substantiate that the annual income derived from the home occupation does not exceed \$10,000 per year. (Ord. No. 1533)

G. All persons who qualify as “disabled” under the Americans With Disabilities Act, the Social Security Act, or the California Fair Employment & Housing Act, who receive subsidies from government or nonprofit entities because of their disability, and who are engaged in any home occupation, as that term is defined in the zoning ordinance, shall pay an annual flat rate tax of \$50, provided that the annual income derived from such home occupation does not exceed

\$10,000 in any calendar year. In order to qualify for this reduced rate, licensees shall submit a copy of their most recent tax return to substantiate that the annual income derived from the home occupation does not exceed \$10,000 per year, as well as a letter from a licensed physician certifying to their disabled status. (Ord. No. 1533)

#### **§ 5.10.030 Annual Adjustment.**

The business license tax amount set forth in this chapter, for all businesses other than those based on gross receipt taxes, may be adjusted annually on July 1st of each year in accordance with the increase in the Consumer Price Index, at the discretion of the city council. For purposes of this chapter, "Consumer Price Index" means the revised consumer price index for All Urban Consumers, Los Angeles-Long Beach-Anaheim, 1967 = 100, as prepared by the Bureau of Labor Statistics of the United States Department of Labor, or if any such agency shall cease to prepare such an index, then any comparable index covering the Los Angeles and Orange County areas prepared by any other federal or state agency that is approved by the city council. (Ord. No. 1533)

#### **§ 5.10.035 Constitutional Apportionment.**

A. The business license tax shall not be imposed in violation of the federal or state constitution. Any person subject to the business license tax may request that the prescribed tax amount be adjusted to comply with constitutional apportionment requirements. The adjustment application shall be filed before, concurrently with or within 6 months after payment of the prescribed tax amount. By sworn statement and supporting evidence, the adjustment applicant shall show the method of business, the gross volume or estimated gross volume of business and such other information as the collector deems necessary.

B. The collector shall investigate timely filed adjustment applications to determine whether adjustment of the prescribed tax amount is warranted to comply with constitutional apportionment requirements. When an adjustment is warranted, the collector shall fix as the business license tax for the adjustment applicant an amount that is reasonable and does not exceed the amount prescribed by this chapter. In fixing the business license tax, the collector may base the tax upon a percentage of gross receipts or other measure that will assure the tax shall be uniform with that assessed on similar businesses. If the adjustment applicant has paid the prescribed tax amount, the collector shall refund the amount paid in excess of the business license tax so fixed for the current year.

#### **§ 5.10.040 Exemptions.**

A. The business license tax shall not apply to any person exempt by federal or state law from payment of such tax. Without limiting the scope of the preceding, the following are exempt from payment of the business license tax:

1. Banks, pursuant to California Constitution Article XIII, Section 27.
2. Insurers, pursuant to California Constitution Article XIII, Section 28.
3. Alcoholic beverage licenses, pursuant to California Constitution Article XX, Section 22.
4. Disabled veterans, pursuant to Business and Professions Code Sections 16001 or 16001.5. (Ord. No. 1533)
5. Community care facilities licensed by the state and serving 6 or fewer persons, pursuant to Health and Safety Code Section 1523.1.

6. Nonprofit and charitable organizations that have the appropriate tax exemption designation from federal and state taxing authorities. This includes without limitation fraternal, educational, civic and religious organizations.

7. Natural persons 19 years of age, or under, engaged in the business of lawn mowing and yard maintenance work.

B. Any person claiming an exemption pursuant to this section shall file a sworn statement, on a city-provided form, stating the facts upon which the exemption is claimed. The collector shall, upon a proper showing, issue a business license without payment of the business license tax.

C. The collector may revoke a business license granted pursuant to this section upon determining that the licensee is not entitled to an exemption. Prior to any such revocation, the collector shall give notice and a reasonable opportunity for a hearing to the licensee.

#### **§ 5.10.045 Issuance of License.**

A. Every person required to pay the business license tax shall submit an application on a city-provided form. In the application for the business license, the applicant shall specify an address within the city to which correspondence may be sent by the city to the licensee, and a local telephone number that the city may call to contact the licensee. The applicant must consent to such communications by the city at that address and phone number prior to issuance of the business license. In the event the licensee relocates or changes the phone number, the licensee shall notify the collector in writing, at least 10 business days prior to the change. Notwithstanding the foregoing, the licensee may not change the address to an address outside of the city, and the licensee may not change the telephone number to a non-local number.  
(Ord. No. 1524)

B. The collector shall issue a business license upon payment of the applicable business license tax and presentation of all permits required for operation of the business. A first time applicant for a new business taxed on the basis of gross receipts shall be required to pay the minimum tax applicable to such business for the first year of operations in the city.

C. Business licenses shall contain the following and such other information deemed necessary or appropriate by the collector:

1. The name of the person to whom the license is issued.
2. The name of the business for which the license is issued.
3. The place where such business is to be carried on.
4. The expiration date of the license.

D. No business license shall be transferable.

E. Issuance of a business license does not authorize any unlawful business.

#### **§ 5.10.050 Suspension or Revocation of License.**

The collector may suspend or revoke a business license whenever the licensee has violated this code or any other law. The licensee shall be afforded notice and opportunity for a hearing prior to any suspension or revocation.



**§ 5.10.055 Appeals.**

Decisions of the collector to issue, suspend or revoke a business license shall be subject to the administrative review procedure of chapter 1.20 of this code. The city council shall be the hearing officer for purposes of such procedure.

**§ 5.10.060 Separate Licenses.**

A. A separate business license shall be obtained for each branch establishment of a business in the city.

B. A separate business license shall be obtained for each person who operates a business as a concession or on rented floor space in premises of another person holding a business license.

C. Except as otherwise provided in this chapter, any person carrying on 2 or more businesses at the same location shall obtain a separate business license for each such business. Notwithstanding the preceding, where the business license tax for each business is based on gross receipts, a single business license tax may be paid on the basis of the combined total gross receipts of the several businesses and a single business license shall be issued. In the event the tax for each business is based on gross receipts under different tax rate schedules, the business license tax for the combined total gross receipts of the several businesses shall be based on the tax rate schedule applicable to the business activity producing the greatest amount of gross receipts.

D. A separate license is not required for an ice vending machine located at a place of ice manufacture.

E. A separate license is not required for coin-operated lockers in bowling alleys.

F. All funds derived from conducting a business in the city shall be deposited into a separate fund or bank account and shall not be commingled with any other fund or account. (Ord. No. 1524)

**§ 5.10.065 Determination of Tax Amount by City.**

A. The collector may determine the amount of business license tax owed by a person carrying on business in the city in any of the following circumstances:

1. Such person fails to apply for a business license.
2. Such person fails to file a required statement in a timely manner.
3. Such person files an incorrect statement or incorrectly computes the amount of tax due.

B. The determination of the business license tax owed shall be based on information available to the collector. Written notice of the determination, and a reasonable opportunity for a hearing regarding its appropriateness, shall be given to the person liable for payment of the tax. If application for a hearing is not made within the designated time, the business license tax determined by the collector shall be final and conclusive.

**§ 5.10.070 Evidence of Doing Business.**

Any advertisement that a person is in business in the city shall constitute prima facie evidence of such fact unless a sworn statement denying such fact is submitted to the collector. The holding

of an active license or permit indicating that a person is in business in the city shall constitute prima facie evidence of such fact unless a sworn statement denying such fact is submitted to the collector.

**§ 5.10.075 Replacement License.**

A. A business license holder may obtain a replacement license when the business associated with the license is relocated. The replacement license shall not be issued until the city has determined that the new location conforms to the zoning ordinance. The original business license shall be relinquished concurrently with the issuance of the replacement license. (Ord. No. 1524)

B. A business license holder may obtain a replacement business license when the previously issued license has been lost or destroyed.

C. The fee for a replacement business license shall be in an amount set by city council resolution.

**§ 5.10.080 Display of License.**

Any person carrying on business at a fixed location in the city shall conspicuously post upon the premises the business license issued for such business. All other persons carrying on business in the city shall have their business license available for immediate inspection at any time such business is in operation.

**§ 5.10.085 Delinquency.**

A. All business license taxes are delinquent as follows:

1. Daily Taxes. Delinquent at 5:00 p.m. on the due date.
2. Annual Taxes. Delinquent at 5:00 p.m. on July 30th except all annual business license taxes paid on a gross receipts basis are delinquent at 5:00 p.m. on August 31st.
3. New Businesses. Taxes for new businesses commencing after the first day of July are delinquent at 5:00 p.m. on the 30th day from the commencement date.

B. A penalty of 25% of the tax amount shall be added to each business license tax remaining unpaid 30 days after it becomes due. A penalty of 50% of the tax amount shall be added to each tax remaining unpaid 60 days after it becomes due. A penalty of 100% of the tax amount shall be added to each tax remaining unpaid 90 days after it becomes due. Notwithstanding the preceding, unpaid taxes based on gross receipts, other than taxes on new businesses, shall have a penalty of 25% added on September 1st, 50% added on October 1st, and 100% added on November 1st. All penalties shall be cumulative.

C. The collector may, upon receipt of a written request before the delinquency date, extend for not more than 30 days the deadline for paying the business license tax.

**§ 5.10.090 Refunds.**

A. No refund of an overpayment of business license tax shall be allowed unless a claim for refund, on a city-provided form, is filed with the collector within 1 year from the due date of such tax. Upon the filing of such a claim and confirmation of an overpayment, the collector shall refund the amount overpaid.

B. No refund of a business license tax payment for an un-commenced business shall be allowed unless a claim for refund, on a city-provided form, is filed with the collector within 30 days from the date of such payment. Upon the filing of such a claim and confirmation that the business has not commenced, the collector shall refund 80% of the amount paid.

#### **§ 5.10.095 Records.**

All persons subject to this chapter shall keep complete records of business transactions, including sales, receipts, purchases, and other expenditures. Such records shall be retained for examination by city representatives for a period of 3 years. No person required to keep records under this section shall refuse to allow city representatives to examine such records at reasonable times and reasonable places.

For purposes of this section, "reasonable places" shall mean locations within the city or within 35 miles of the city limits. In the event records are kept further than 35 miles from the city limits, the person required to keep the records shall be responsible for all reasonably necessary travel expenses of the city representatives, including but not limited to mileage, airfare, food, lodging, and time billed by consultants while traveling. The determination of whether expenses are reasonably necessary shall be at the sole discretion of the city. (Ord No. 1524)

#### **§ 5.10.100 License Verification.**

At any reasonable time city representatives may enter a business subject to this chapter for verification of receipt of a business license. It shall be the duty of the collector to enforce all of the provisions of this chapter. The chief of police and city attorney may render assistance in the enforcement of this chapter as may be requested by the collector or the city council. (Ord. No. 1524)

#### **§ 5.10.105 Building Inspection Approvals.**

Final building inspection approvals shall not be issued until the building division confirms that all contractors working on the building have paid the business license tax.

#### **§ 5.10.110 Coin Operated Machines.**

All coin operated machines for which a business license is required shall contain in a conspicuous place an identification stamp issued by the collector. This includes amusement games, vending machines and weighing machines. Such stamp shall indicate the owner, the owner's principal place of business and the business license number of the machine.

#### **§ 5.10.115 Contractors.**

A. Each contractor in receipt of a business license shall give written notice to the collector of any change of principals, partners, executive officers or business address within 5 days of such change.

B. No business license shall be issued to any contractor who has not complied with applicable state licensing requirements. A business license shall be automatically suspended, and it shall be unlawful for any licensee to do any work covered by such license, during any period in which the contractor's state license is ineffective.

**§ 5.10.120      Cosmetological Establishments.**

A business license for a cosmetological establishment includes the right to sell beauty supplies owned by the owner of such business.

**§ 5.10.125      Laundry Agencies.**

Each laundry agency shall display in a conspicuous place a sign indicating the name and address of the establishment that launders goods of a textile nature on behalf of such agency.

**§ 5.10.130      Peddling and Soliciting.**

Every application for a business license for peddling or soliciting shall include a photograph of the applicant. Applications filed by a corporate entity shall include a photograph of a manager of the entity.

**§ 5.10.135      Photographic and Voice Recording Machines.**

All photographic machines and voice recording machines for which a business license is required shall contain in a conspicuous place an identification stamp issued by the collector. Such stamp shall indicate the owner, the owner's principal place of business and the business license number of the machine.

**§ 5.10.140      Public Garages.**

A business license for a public garage includes the right to sell oil, grease and automobile accessories. Such license does not include the right to operate a jitney or automobile for hire, to maintain any vehicle for transporting goods, wares or merchandise for hire, or to carry on the business of selling automobiles.

**§ 5.10.145      Secondhand Dealers.**

A business license for second hand dealers shall not be required for a person whose sales of secondhand goods are confined to the disposal of merchandise accepted in trade and as part payment for new goods sold by such person.

**§ 5.10.150      Penalty.**

- A. Any person violating this chapter shall be guilty of a misdemeanor.
- B. Any person knowingly or intentionally misrepresenting to a city representative any material fact in procuring a business license shall be guilty of a misdemeanor.
- C. The amount of any business license tax and penalty imposed by this chapter shall be deemed a debt to the city. The city may pursue any legal remedy available for the collection of any delinquent business license tax, and penalties and administrative costs incurred in connection therewith, including attorney fees. Neither the arrest, prosecution, conviction, imprisonment nor payment of a fine for the violation of this chapter shall satisfy or diminish the indebtedness to the city created by this chapter.

\* \* \* \* \*

## **Chapter 5.15**

### **Adult Entertainment**

#### **§ 5.15.005 Purpose.**

The purpose of this chapter is to mitigate the adverse secondary effects that can be generated by the unregulated operation of adult entertainment businesses. Prior to enacting this chapter, the city council considered studies that persuasively demonstrate these adverse secondary effects include without limitation: depreciation of property values; increased criminal activity, litter, noise and vacancy rates; and interference with the enjoyment of property in the vicinity of such businesses.

#### **§ 5.15.010 Definitions.**

For the purpose of this chapter, the following words and phrases shall mean:

A. Adult Entertainment Business:

1. Adult Arcade: is a commercial establishment that as a regular and substantial course of conduct shows, in 1 or more viewing rooms less than or equal to 150 square feet, movies or still images characterized by an emphasis upon specified sexual activities or the exposure of specified anatomical areas.

2. Adult Cabaret: is a commercial establishment that as a regular and substantial course of conduct emphasizes and seeks, through one or more erotic dancers, to arouse or excite the patrons' sexual desires.

3. Adult Motion Picture Theater: is a commercial establishment that as a regular and substantial course of conduct shows, in one or more viewing rooms larger than 150 square feet, movies or still images characterized by an emphasis upon specified sexual activities or the exposure of specified anatomical areas.

4. Adult Retail Store: is a commercial establishment that as a regular and substantial course of conduct sells or rents adult entertainment merchandise.

B. Adult Entertainment Merchandise:

1. An audio tape, book, magazine, movie or still picture characterized by an emphasis upon specified sexual activities or the exposure of specified anatomical areas.

2. Paraphernalia designed or marketed primarily for the stimulation of human genitals. "Adult entertainment merchandise" does not include birth control devices.

C. Characterized by an emphasis upon: the dominant theme of the object described by such phrase.

D. Director: director of administrative services.

E. Directly Pay or Give: the placement of a gratuity by a patron on any portion of an erotic dancer's person or clothing.

F. Erotic Dancer: a person who dances or otherwise performs at an adult cabaret and who seeks to arouse or excite the patrons' sexual desires.

G. Nudity:

1. The showing of human genitals, pubic area, anus or cleft of the buttocks with less than a fully opaque covering. (Ord. No. 1533)
2. The showing of the female breast with less than a fully opaque covering of any part of the nipple.
3. The exposure of any device, costume or covering that gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum, anal region, or pubic hair region.
4. The exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.

H. Nuisance activities: disturbance of the peace; littering; public drinking of alcoholic beverages or drunkenness; and public urination or defecation.

I. Owner:

1. The sole proprietor of an adult entertainment business.
2. A general partner of a partnership that owns and operates an adult entertainment business.
3. A controlling shareholder in a corporation that owns and operates an adult entertainment business.
4. A person designated by the officers of a corporation to be the permit holder for an adult entertainment business owned and operated by the corporation.

J. Regular and Substantial Course of Conduct: the existence of any of the following conditions:

1. At least 30% of the stock-in-trade is devoted to adult entertainment merchandise.
2. At least 30% of the total display area is devoted to adult entertainment merchandise.
3. At least 30% of the gross receipts of the business are derived from the sale or rental of adult entertainment merchandise.
4. On 4 or more days within a 30 day period, the establishment presents live entertainment by one or more erotic dancers.
5. On 4 or more days within a 30 day period, the establishment presents non-live entertainment that is characterized by an emphasis upon specified sexual activities or the exposure of specified anatomical areas.

K. Religious Institution: a church, mosque, synagogue, temple or similar establishment operated by a religious organization as a place of worship or religious instruction.

L. School: a public or private elementary, secondary, middle, junior high or high school.

M. Specified Anatomical Areas:

1. Less than completely and opaquely covered genitals, pubic region, buttocks and nipple of the female breast.

2. Male genitals in a discernibly turgid state, even if completely and opaquely covered.

3. Any device, costume or covering that simulates any of the body parts included in subparagraphs 1 or 2 above.

N. Specified Sexual Activities: The following, whether performed directly or indirectly through clothing or other covering:

1. The fondling of human genitals, pubic region, buttocks, anus, or female breast.

2. Sex acts, actual or simulated.

3. Excretory functions as part of, or in connection with, any of the other activities described in subparagraphs 1 or 2 above.

O. Substantially Enlarged: The increase in floor area occupied by an adult entertainment business by more than 10% of its floor area as it existed at the time an adult entertainment permit was issued for the business.

**§ 5.15.015 Adult Entertainment Permit Requirement.**

It is unlawful for any person to operate an adult entertainment business unless the owner of such business first obtains, and continues to maintain in full force and effect, an adult entertainment permit for such business.

**§ 5.15.020 Adult Entertainment Permit Application.**

A. Eligibility. An owner of an adult entertainment business is the only person eligible to obtain an adult entertainment permit for such business. No person under 18 years of age shall be eligible for an adult entertainment permit.

B. Submission. An adult entertainment permit application shall be submitted to the director. The application consists of the application fee and the following:

1. A city-provided application form containing: (i) the applicant's name, mailing address and phone number; (ii) the applicant's status as a sole proprietor, general partner, controlling shareholder or designated representative of the proposed business; (iii) the address of the proposed business; (iv) a description of the proposed business; (v) the names and addresses of other adult entertainment businesses currently operated in the state by the owner; and (vi) a list of adult entertainment-related permits that the owner currently holds or has had suspended or revoked by another governmental entity.

2. Two passport-size color photographs that clearly show the applicant's face.

3. The applicant's fingerprints on a police department-provided form.
4. A site plan depicting how the proposed business will comply with the design standards of this chapter and the off-street parking requirements of the zoning ordinance.
5. A statement signed by the applicant certifying under penalty of perjury that the information submitted in connection with the application is true and correct.

**§ 5.15.025 Approval or Denial of Adult Entertainment Permit.**

A. Director's Decision. The director shall, within 30 city business days of the filing of an application, approve and issue the adult entertainment permit if there are no grounds for denial; otherwise the permit shall be denied. Notice of the approval or denial of the permit shall be given to the applicant in writing. If the application is denied, the director shall attach to the notice a statement of the reasons for the denial. The times set forth in this section shall not be extended except upon written consent of the applicant.

B. Grounds for Denial. The director may deny an application for an adult entertainment permit upon any of the following grounds:

1. The applicant is under 18 years of age.
2. Failure to complete the application.
3. Knowing submission of a misleading or fraudulent statement of material fact.
4. The applicant proposes to conduct more than one type of adult entertainment business within the establishment.
5. Failure to comply with the location standards of this chapter.
6. Failure to comply with the design standards of this chapter.
7. Failure to comply with the zoning ordinance.
8. The applicant, or a person affiliated with the applicant's partnership or corporation, has had an adult entertainment permit revoked by the city within one year prior to the date of the application.

**§ 5.15.030 Location Standards.**

A. Adult entertainment businesses shall comply with the following location standards:

1. The business shall be located in a zone permitting such use and outside of the boundaries of any redevelopment area established by ordinance.
2. The business shall not be located within 400 feet of a residential zone or residential use, whether such zone or use is within or outside of the city.
3. The business shall not be located within 1,000 feet of a public park, religious institution or school, whether such use is within or outside of the city.



4. The business shall not be located within 1,000 feet of another adult entertainment business, whether such business is within or outside of the city.

B. The distances specified in this section shall be measured in a straight line, without regard for intervening structures, from the property line of the lot containing the adult entertainment business to the property line of the property so used at the time of submission of the permit application.

#### **§ 5.15.035 Design Standards.**

Adult entertainment businesses shall comply with the following design standards:

A. Sufficient sound-absorbing insulation shall be provided to ensure that noise generated inside the establishment shall not be audible outside of the establishment.

B. The interior shall be configured in such a manner that from a manager's station there is an unobstructed view of every area to which patrons are permitted access, excluding restrooms. If the premises have multiple manager's stations, then the interior shall be configured in such a manner that from at least 1 of the manager's stations there is an unobstructed view of every area of the premises to which patrons are permitted access, excluding restrooms. The view required by this paragraph must be direct line of sight from the designated manager's station.

C. Adult arcades shall comply with the following additional standard:

1. The walls or partitions between viewing rooms shall not contain holes such as would allow either: (i) viewing from one room into another; or (ii) physical contact between the occupants of the rooms.

D. Adult cabarets shall comply with the following additional standards:

1. Each stage shall be elevated at least 18 inches above the level of the floor and separated at least 6 feet from the nearest patron area.

2. Dressing room facilities shall be provided for the exclusive use of erotic dancers.

#### **§ 5.15.040 Operation Standards.**

Adult entertainment businesses shall comply with the following operation standards:

A. No more than one type of adult entertainment business shall be conducted within the establishment.

B. The adult entertainment permit issued for the business shall be conspicuously posted so that it may be readily seen by persons entering the establishment.

C. Adult entertainment merchandise, specified sexual activities and specified anatomical areas shall not be visible from the exterior of the establishment.

D. Persons under the age of 18 years shall not be permitted within the establishment.

E. Security guards shall be employed in accordance with the following standards:

1. At least 1 security guard shall be on duty within the business at all times during open hours; provided, however, that at least 2 security guards shall be on duty if the occupancy limit of the premises is greater than 50 persons.

2. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public.

3. No security guard shall act as an admittance person, ticket person or sole occupant of a manager's station.

F. The business shall not be operated between the hours of 12:01 am and 9:00 a.m. on any day.

G. The exterior grounds of the premises shall be kept free of adult entertainment merchandise.

H. Acupressure, acupuncture, gambling, massage and tattooing shall not be conducted on the premises.

I. At least one employee shall be on-duty and stationed at each manager's station while a patron is in the establishment.

J. Adult arcades shall comply with the following additional standards:

1. No viewing room shall be occupied by more than one patron at a time.

2. The floors, seats, walls and other interior portions of viewing rooms shall be maintained clean and free from bodily secretions and waste.

K. Adult cabarets shall comply with the following additional standards:

1. No erotic dancer shall dance on the premises unless such person is in possession of a valid erotic dancer permit.

2. No erotic dancer shall dance on the premises in a state of nudity.

3. No erotic dancer shall dance on the premises except upon a stage that complies with the design standards of this chapter.

4. No erotic dancer shall dance on the premises closer than 6' to any patron.

5. No erotic dancer shall fondle or caress a patron and no patron shall fondle or caress an erotic dancer.

6. No patron shall directly pay or give any gratuity to an erotic dancer, and no erotic dancer shall solicit any pay or gratuity from a patron.

**§ 5.15.045 Non-transferability.**

A. No person shall operate an adult entertainment business under the authority of an adult entertainment permit at any place other than the address stated in the application for such permit.

B. No adult entertainment permit shall be transferable. Any attempt to transfer an adult entertainment permit shall automatically render the permit void as of the date of such attempted transfer.

**§ 5.15.050 Adult Entertainment Permit Conditions.**

The design standards and operation standards of this chapter are conditions of adult entertainment permit approvals. Notwithstanding any other provision of this code, failure to comply with any such standard shall not constitute grounds for criminal prosecution.

**§ 5.15.055 Adult Entertainment Permit Renewal.**

A. Permit Term. Each adult entertainment permit shall be valid for 2 years from the date of issuance or renewal unless suspended or revoked.

B. Application Submission. An application for renewal of an adult entertainment permit shall be submitted to the director no sooner than 60, and no later than 45, days prior to the expiration of such permit. The application consists of the renewal application fee and the items required for an initial application, except as follows:

1. No additional fingerprints will be required if the applicant's fingerprints are already on file with the city.

2. No additional site plan will be required if the applicant declares that the business continues to operate in accordance with the site plan submitted in conjunction with the initial application.

C. Director's Decision. The director shall, within 30 city business days of the filing of a renewal application, renew the adult entertainment permit if there are no grounds for denial; otherwise the application shall be denied. Notice of the renewal or denial of the permit shall be given to the applicant in writing. If the application is denied, the director shall attach to the notice a statement of the reasons for the denial. The times set forth in this section shall not be extended except upon written consent of the applicant.

D. Grounds for Denial. The director may deny an application for renewal of an adult entertainment permit upon any of the grounds for denial of an initial application or if the business has failed to comply with the operating standards of this chapter at any time during the 6 months prior to the date of the application.

**§ 5.15.060 Erotic Dancer Permit Requirement.**

It is unlawful for any person to work as an erotic dancer unless such person first obtains from the director, and continues to maintain in full force and effect, an erotic dancer permit.

**§ 5.15.065 Erotic Dancer Permit Application.**

A. Eligibility. No person under 18 years of age shall be eligible for an erotic dancer permit.

B. Submission. An erotic dancer permit application shall be submitted to the director. The application consists of the application fee and the following:

1. A city-provided application form containing: (i) the applicant's name, mailing address and phone number; (ii) the applicant's birth date; (iii) any stage names or aliases

used by the applicant; and (iv) the name and address of the adult cabaret at which the applicant intends to perform.

2. The applicant's fingerprints on a city-provided form.
3. Two passport-size color photographs that clearly show the applicant's face.

**§ 5.15.070 Approval or Denial of Erotic Dancer Permit.**

A. Director's Decision. The director shall, within 4 city business days of the filing of an application, approve and issue the erotic dancer permit if there are no grounds for denial; otherwise the permit shall be denied. Notice of the approval or denial of the permit shall be given to the applicant in writing. If the application is denied, the director shall attach to the notice a statement of the reasons for the denial. The times set forth in this section shall not be extended except upon written consent of the applicant.

B. Grounds For Denial. The director may deny an application for an erotic dancer permit upon any of the following grounds:

1. The applicant is under 18 years of age.
2. Failure to complete the application.
3. Knowing submission of a misleading or fraudulent statement of material fact.
4. The applicant has had an erotic dancer permit revoked by the city within 1 year prior to the application date.

**§ 5.15.075 Confidentiality of Erotic Dancer Information.**

Pursuant to Government Code Section 6254(f), information submitted in connection with an erotic dancer permit application is not a public record and shall not be disclosed by the city to the public.

**§ 5.15.080 Presentation of Erotic Dancer Permit.**

Every erotic dancer shall have his or her erotic dancer permit available for inspection at all times during which such person is on the premises of the adult cabaret designated in the permit.

**§ 5.15.085 Disciplinary Action.**

A. Grounds for Discipline.

1. The director may suspend or revoke an adult entertainment permit if the permittee knowingly has done any of the following:
  - a. Submitted a misleading or fraudulent statement of material fact in the application.
  - b. Failed to comply with the design standards or operation standards of this chapter.

c. Failed to prevent criminal activity on the premises of the business.

d. Failed to prevent nuisance activities on the premises of the business.

e. Substantially enlarged the business without city approval.

f. Failed to abide by disciplinary action previously imposed by the director.

2. The director may suspend or revoke an erotic dancer permit if the permittee knowingly has done any of the following:

a. Submitted a misleading or fraudulent statement of material fact in the application.

b. Engaged in any of the activities described below while on the premises of an adult entertainment business:

(1) Sexual activity with a patron.

(2) Unlawful solicitation of sexual activity with a patron.

(3) Transfer of unlawful narcotics.

(4) Conduct prohibited by this chapter.

c. Failed to abide by disciplinary action previously imposed by the director.

B. Notice. The director shall furnish the permittee written notice and an opportunity for a hearing prior to imposing any disciplinary action. Such notice shall be provided at least 10 days in advance and shall set forth the time and place of a hearing, and the ground(s) upon which the proposed disciplinary action is based.

C. Hearing. Hearings shall be conducted in accordance with procedures established by the director. All parties involved shall have a right to: (i) offer testimonial, documentary and tangible evidence bearing on the issues; (ii) be represented by counsel; and (iii) confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness.

D. Penalty. Upon determining that there are grounds for disciplinary action, the director may take any of the following actions:

1. Issue a warning.

2. Impose such conditions on the adult entertainment permit or erotic dancer permit as deemed appropriate in order to protect the public health, safety and welfare.

3. Suspend the adult entertainment permit or erotic dancer permit for a specified period not to exceed 30 days.

4. Revoke the adult entertainment permit or erotic dancer permit.

E. Findings. The director shall issue written findings in conjunction with the imposition of any disciplinary action.

**§ 5.15.090 Appeals.**

Decisions of the director to issue, deny issuance, renew, deny renewal, or impose disciplinary action in connection with an adult entertainment permit or erotic dancer permit shall be subject to the administrative review procedure of Chapter 1.20 of this code. The city manager shall be the hearing officer for purposes of such procedure and may not delegate such responsibility. The city manager's administrative review decision shall be final and shall not be subject to council review pursuant to Chapter 1.20 of this code.

**§ 5.15.095 Fees.**

Application fees for adult entertainment permits and erotic dancer permits shall not exceed the city's reasonable administrative costs.

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## Chapter 5.20

### Alarm Systems

#### § 5.20.005 Definitions.

For the purpose of this chapter, the following words and phrases shall mean:

A. Alarm Agent: alarm business employee who: sells, leases, services, repairs, maintains, alters, replaces, monitors, relocates, or installs any alarm system for any premises; responds to alarms, investigates causes of alarms, or notifies the police or fire authority of alarms; or provides any similar related service. Persons who engage in the manufacture or sale of alarm systems exempt from this chapter are not alarm agents for the purposes of this chapter.

B. Alarm Business: act of, or causing the act of selling, leasing, maintaining, servicing, repairing, altering, replacing, monitoring, relocating or installing any alarm system for any premises; responding to, investigating the cause of, or notifying the police or fire authority of the alarm; or providing any similar related service.

C. Alarm System: burglar alarm system, fire alarm system or both. "Alarm system" includes without limitation, indirect dial telephone devices, audible alarms and direct alarms.

D. Alarm User: owner or lessee of an alarm system.

E. Answering Service: service that receives signals from alarm systems for the purpose of relaying the message to the police or fire authority.

F. Audible Alarm: device designed for the detection of unauthorized entry upon premises and that generates an audible sound on the premises when activated.

G. Automatic Communication Device: electrical, electronic, mechanical or other device that transmits a prerecorded message to the police or fire authority.

H. Burglar Alarm: device signaling entry, attempted entry or intrusion upon premises.

I. Burglar Alarm System: system designed or used for the detection of unauthorized entry upon premises or for alerting of the possible commission of an unlawful act therein, or both; and that emits a sound or transmits a signal or message when activated.

J. Central Station: centralized location controlled by an alarm business, in which the operations of electrical protection circuits and devices are transmitted to, recorded in, maintained and supervised.

K. Direct Alarm: alarm system connecting an authorized source to the police or fire authority by any direct line that terminates at an independent terminal monitor module at the police or fire authority.

L. False Alarm: activation of any alarm system because of malfunction, mechanical or electrical defect, or improper activation where no emergency response by the police or the fire authority is required. False alarm shall not include alarms caused by earthquakes, violent winds or external causes beyond the control of the alarm user.

M. Fire Alarm: device transmitting signal that a fire or other emergency exists that requires the response of the fire authority.

N. Fire Alarm System: system that emits a sound or transmits an alarm, message or signal warning of a threat to life or property from heat, smoke, fire or hazardous materials, or a medical emergency.

O. Fire Authority: Orange County Fire Authority.

P. Indirect Alarm: any device, other than a direct alarm, designed to transmit a signal to summon the police, fire authority or an alarm business to a location.

Q. Intrusion: unauthorized entry upon premises.

R. Police: Seal Beach Police Department, its designee and any dispatch service used by the department.

S. Premises: any structure, building or facility.

T. Subscriber: person who contracts with or hires an alarm business to monitor or service an alarm system.

U. Telephone Provider: company that furnishes telephone services.

V. Terminal Monitor Module: device installed at the governmental facility to which direct alarms are transmitted.

#### **§ 5.20.010 Registration Requirement.**

No alarm business or alarm agent shall engage in an alarm business in the city unless it: has all necessary state licenses; and is registered with the police in the case of a burglar alarm system, or with the fire authority in the case of a fire alarm system. Further, each individual shall file a copy of his or her state identification card with the police.

#### **§ 5.20.015 Direct Alarm Permit.**

No person shall connect a direct alarm to the police without first obtaining a permit. No person shall connect a direct alarm to the fire authority unless that person applies for and obtains a permit pursuant to the rules and regulations adopted by the fire authority.

#### **§ 5.20.020 Direct Alarm Application.**

A. Any person desiring to obtain a direct alarm permit shall file a written application therefore on a form supplied by the police, with the police or its designee. The application shall include:

1. The applicant's name, address and telephone number.
2. The address and telephone number of the premises.
3. Evidence showing that all necessary arrangements with a telephone provider have been made.
4. A complete set of written specifications adequately describing the equipment and placement of such alarm systems.



5. The names, addresses and telephone numbers of at least 2 persons to be contacted in the event of an emergency.

6. The names, addresses and telephone numbers of at least 2 persons authorized to respond to and open the premises. The applicant's alarm business may be included as 1 of these persons.

B. The permit applicant shall pay an annual fee to the city or its designee. The annual fee for a direct alarm shall be set by city council resolution. The permit shall be effective from July 1st through June 30th of each calendar year.

#### **§ 5.20.025 Direct Alarm Operation Standards.**

A. All material and labor necessary to make the installation at the permittee's premises shall be furnished by the permittee at the permittee's sole expense. All materials and labor necessary to make the connection between the private system and the terminal monitor module at the police shall be furnished by the permittee or the police's designee.

B. After installation, no change, modification or alteration of the equipment shall be made without written authorization from the police.

C. If malfunctions should develop in a direct alarm system connected to the police that could jeopardize the proper operation of any other terminal facilities or communication system, or, if excessive or chronic false alarms are transmitted by any such direct alarm system, service shall be disconnected and shall not be reactivated until the malfunction or the cause of the false alarms is corrected by the permittee at the permittee's expense. The permittee shall defend, hold harmless and indemnify the city, its elected and appointed officers and its employees from any loss or damage resulting from the malfunction of such alarms or for failure to respond to the alarms for whatever reason.

D. The permittee shall keep current all information contained in the permittee's application and shall notify the police of any changes to information contained in the application within 10 days of such change.

E. The permittee shall assure the responsiveness of persons listed as "authorized to respond" in the application.

F. The permittee shall keep alarm equipment in good order at all times. Such equipment, installations and repairs shall comply with rules and regulations promulgated by the police regulating the times and conditions under which such installations and repairs may be made.

G. The police may issue, conditionally issue or deny a direct alarm permit. A permit may be denied, inter alia, if the make or model of the device listed in the application has, in the experience of the police, proved to be deficient by reason of malfunction, false alarm, or failure to activate on a significant number of occasions, or if the application does not comply with the terms and conditions set forth herein.

#### **§ 5.20.030 Indirect Alarm Permit.**

No person shall install or maintain an indirect burglar alarm system on such person's premises without first having obtained a permit to do so as provided in this chapter. Any person desiring to obtain an indirect fire alarm permit shall file a written application therefore, on a form supplied by the fire authority, with the fire authority.

**§ 5.20.035 Indirect Alarm Application.**

A. Any person desiring to obtain a permit for an indirect burglar alarm system shall file a written application therefore, on a form supplied by the police, with the police. The application shall include:

1. The applicant's name, address and telephone number.
2. The address and telephone number of the premises.
3. The make, manufacturer and model number of the device.
4. The place of purchase, and the alarm business that will service it.
5. The exact location of the device(s).
6. The name, address and telephone number of a person to be notified in the event of an emergency.
7. The names, addresses and telephone numbers of 2 persons authorized to respond and open the premises. The applicant's alarm business may be included as one of these persons.

B. The permit applicant shall pay an annual fee to the city or its designee. The annual fee for an indirect alarm shall be set by city council resolution. The permit shall be effective from July 1st through June 30th of each calendar year.

**§ 5.20.040 Indirect Alarm Operation Standards.**

A. The permittee shall furnish complete information and specifications when required, relating to the system to be provided. The information shall include specific data relating to the prevention of false alarms and testing procedures.

B. The permittee shall keep current all information contained in the application.

C. The permittee shall assure the responsiveness of persons listed as "authorized to respond" in the application.

D. The permittee shall maintain equipment in good condition and repair.

E. The permittee shall prevent excessive or chronic false alarms caused by faulty equipment, installation or human error.

F. The permittee shall defend, hold harmless and indemnify the city, its elected and appointed officers and its employees from any loss or damage resulting from the malfunction of such alarms or for failure to respond to the alarms for whatever reason.

G. The police may issue, conditionally issue, or deny an indirect alarm permit. A permit may be denied, inter alia, if the make or model of the device listed in the application has, in the experience of the police, proved to be deficient by reason of malfunction, false alarm, or failure to activate on a significant number of occasions, or if the application does not comply with the terms and conditions set forth herein.

**§ 5.20.045 Central Station Permit Requirement.**

A. Central stations shall first apply for and obtain a permit from the police prior to receiving signals from a burglar alarm system and transmitting that information to the police. Such permit shall have a one year term and may be renewed annually upon submittal of a proper application by the applicant.

B. Central stations shall first apply for and obtain a permit from the fire authority prior to receiving signals from a fire alarm system and transmitting that information to the fire authority.

**§ 5.20.050 Automatic Communication Device.**

Any person owning or leasing an automatic communication device may have the device interconnected to a telephone line transmitting directly to a central station, the alarm user's residence or secondary place of business, or a licensed answering service. The relaying of messages of intermediate services to the police or fire authority shall be over a public telephone, except that the central stations may relay messages over a direct line. Automatic communication devices shall not be programmed to the 911 emergency line.

**§ 5.20.055 Automatic Communication Devices Minimum Standards.**

The contents of the recorded message to be transmitted by an automatic communication device must be intelligible and in a format approved by the police or fire authority as appropriate for the type of emergency being reported. The sensory apparatus and hardware comprising the device shall be maintained by the owner or lessee in a physical condition that will minimize false alarms.

**§ 5.20.060 Audible Alarm Requirements.**

A. Every person maintaining an audible alarm shall post a notice containing the names and telephone numbers of the persons to be notified to render repairs and service and secure the premises during any hour of the day or night during which the alarm system is, or may be, activated. Notice shall be posted near the alarm in such a position as to be legible from the ground level adjacent to the building, structure, or other facility or premises where the alarm system is located.

B. The user of a fire alarm system that is not connected to an alarm business or central station shall designate a person to be available to respond to the protected property within 1 hour after being requested by the fire authority.

C. All audible fire alarm systems shall limit the audible sound generated upon activation to a maximum of 15 minutes when the system is protecting residential premises, and 30 minutes when the system is protecting any other premises. This limit shall be incorporated into the equipment at the protected premises. Audible systems may include an automatic resetting device causing the fire alarm system to rearm upon automatic shutoff.

**§ 5.20.065 Alarm System Standards.**

A. All alarm systems shall utilize equipment and methods of installation approved by Underwriters Laboratories or otherwise approved by the police in the case of burglar alarm systems, or the fire authority in the case of fire alarm systems.

B. In those instances where Underwriters Laboratories has not established standards for categories of equipment or where new equipment is undergoing field testing, the police in the case of a burglar alarm system, or the fire authority in the case of a fire alarm

system, may require that the alarm system be inspected, at the expense of the alarm business or alarm user, by a professional electrical engineer who shall certify whether the alarm system appears to be safe and reliable.

C. The central control unit of the alarm system shall be protected by a key locking device and intrusion sensing mechanisms.

D. Reasonable precautions shall be taken to reduce power noises and alarm power supply surges that may cause false alarm activation.

E. Early warning devices shall be installed in those systems where the alarm user's procedures or environment warrant such protection from indiscriminate alarm activations.

F. The alarm system shall be completely separate from all other alarm systems reporting any other hazard not authorized by this chapter.

G. All fire alarm systems shall at a minimum meet the standards established by the fire authority, including National Fire Protection Association Codes 72A and 72C, and any other regulations that may be adopted by the county. All fire alarm systems, equipment, installations and repairs, and all fire and other emergency tests or drills shall comply with rules and regulations promulgated by the fire authority with respect to the times and conditions under which such installations, repairs, tests or drills may be made.

#### **§ 5.20.070 Inspections.**

The police chief shall have the authority, at reasonable times and upon reasonable oral notice, to enter any premises in or upon which a burglar alarm system or alarm business subject to this chapter is located, to inspect the installation or operation of the alarm systems or alarm businesses. The fire authority shall have the same authority with respect to fire alarm systems and alarm businesses.

#### **§ 5.20.075 Customer Addresses.**

A. Each alarm business shall provide the police, in the case of a burglar alarm system, or the fire authority in the case of a fire alarm system, with the address of each building, structure, place or premises within the city for which the permittee sells or installs an alarm system. This information shall include the name of the person at that location, the type of alarm system, and other general information that may be required by the police or fire authority to assist in responding to the location for an alarm activation.

B. Each alarm business providing or monitoring a fire alarm system shall provide to the fire alarm system user accurate and complete instructions as to the proper use and operation of the system. Instructions shall place specific emphasis on avoiding false alarms.

C. When a fire alarm system has been activated, a representative of the alarm business or central station shall be present at the location of an alarm within one hour after being requested by the fire authority.

#### **§ 5.20.080 Records.**

Each alarm business shall maintain a complete record of inspection and service on each separate subscriber's installed alarm system listing the nature of malfunctions found and corrective measures taken. Each business shall display to the police or fire authority, upon request, its record of inspection and repair for any subscriber's alarm system.

**§ 5.20.085      Violations.**

A.        If an inspection reveals any violations of this chapter, a written report detailing such violations shall be promptly sent to the alarm user and its alarm business. Such report shall require correction within 30 days after receipt of the notice of the violation, and shall state that a failure to comply may result in the revocation of the alarm user's permit in accordance with this chapter.

B.        In addition, any person who violates or willfully fails to comply with this chapter shall be subject to an administrative citation, except where expressly provided, and shall be punished by a fine in accordance with a schedule set by city council resolution.

C.        Any person knowingly causing or creating a false alarm in a fire alarm system shall be subject to an administrative citation.

**§ 5.20.090      Operation Standards.**

No alarm system designed to transmit emergency messages directly or by relay to the police or fire authority shall be tested or demonstrated without first obtaining permission from the applicable permitting agency.

**§ 5.20.095      False Alarms.**

It shall be unlawful for any person to knowingly cause or create a false alarm. This section does not apply to the testing of an alarm, if done with the permission of and in accordance with, applicable police or fire authority rules and regulations.

A.        When any emergency message is received by the police or fire authority that evidences a failure to comply with the requirements of this chapter or a permit issued hereunder, the police or fire authority is authorized to require that the owner or lessee of the alarm system initiating the messages, or the alarm user's representative, disconnect the alarm system until it is made to comply with the requirements herein. The police or fire authority may require that the owner or lessee submit a written report within 15 days describing the actions taken or to be taken in order to comply. If, however, the alarm user, by reason of absence from the city or on any other reasonable basis requests an extension of time to file the report, the 15 day period may be extended.

B.        The alarm user shall be assessed a fee for any false alarms based upon the following schedule:

1.        The first 2 false alarms in a 12 month period shall be considered accidental and no penalty fees charged. The alarm user shall be notified in writing by the police after the occurrence of the second false alarm that any further false alarms may result in penalty assessments.

2.        The alarm user shall be assessed penalty fees for any false alarms above the initial 2 false alarms in a 12 month period. The false alarm penalty fees shall be set forth by city council resolution.

3.        After the police has recorded 5 false alarms within any consecutive 12 month period from any alarm system, it shall notify the alarm user in writing by first class mail, of such fact and require that the alarm user submit a report to the police within 15 days after receipt of such notice, describing efforts to discover and eliminate the causes of the false alarms. If, however, the alarm user by reason of absence from the city or on any other reasonable basis requests an extension of time to file the report, the police may extend the 15 day period for a

reasonable period. If the alarm user fails to submit such a report within 15 days or within any such extended period, or if the efforts taken to discover and eliminate defects are deemed insufficient, the police may place the alarm system on "no emergency response status." Under such circumstances, the police shall notify the alarm user and the alarm business in writing by first class mail, and the city manager of such action. Commencing 10 days after such action, the alarm system shall be disconnected, and if not disconnected, the police will not respond to the activation of the alarm system. This shall continue until corrective measures have been taken and certified by the police or its designee.

#### **§ 5.20.100 Tampering.**

It shall be unlawful for any person to tamper with, render inoperative or maliciously damage any alarm system. This section does not apply to any person performing approved maintenance or repair work on an alarm system.

#### **§ 5.20.105 Rules and Regulations.**

The police in the case of burglar alarm systems, and the fire authority in the case of fire alarm systems, shall promulgate rules and procedures as may be necessary to implement this chapter and to determine grounds for clerical suspension, or revocation of any license or permit required by this chapter.

#### **§ 5.20.110 Exemptions.**

The foregoing sections in this chapter are not applicable to:

- A. Alarms affixed to motor vehicles.
- B. Fire and police call boxes.
- C. A public telephone utility whose only function is to furnish telephone service pursuant to tariffs on file with the California Public Utilities Commission.
- D. Devices installed by a telephone company to protect its own systems.
- E. Alarm systems that protect property of the city and other public property.
- F. Persons or firms engaged solely in the manufacture or sale of alarm system components from a fixed location and who do not install, maintain, service or plan the alarm system for a specific location.
- G. Alarm systems that do not alert law enforcement agencies or others outside the protected facilities.
- H. Fire alarm systems exempted by the director or other authorized designee of the fire authority if it is determined that the system does not create a substantial danger of generating false alarms.

#### **§ 5.20.115 Appeals.**

Decisions involving permits issued pursuant to this chapter shall be subject to the administrative review procedure of chapter 1.20 of this code. The city manager shall be the hearing officer for purposes of such procedure.

\* \* \* \* \*

## **Chapter 5.25**

### **Ambulance Service**

(Ord. No. 1525)

#### **§ 5.25.005      Definitions.**

For the purposes of this chapter, the following words and phrases shall mean:

A.     Advanced Life Support (ALS) and Basic Life Support (BLS): as defined in the Health and Safety Code.

B.     Ambulance: a motor vehicle, helicopter, or similar vehicle, specifically constructed, modified, equipped or arranged and operated for the purpose of transporting patients requiring immediate or ongoing medical services excluding the transportation of such persons to or from locations not providing services as defined in this chapter.

C.     Ambulance Service: the activity, business or service, for hire, profit, or otherwise, of transporting one or more persons by ambulance; provided, however, ambulance service shall not include the transportation by ambulance by an employer of his or her own employees in an ambulance owned and operated by the employer solely for this purpose.

D.     Ambulance Service Operator: any person who operates or owns an ambulance service.

E.     Attendant: a trained, qualified individual who, regardless of whether he or she also serves as driver, is responsible for the care of patients.

F.     Department: the Emergency Medical Services Agency of the county, or the Health Care Agency of the county, or such other agency as may be designated by the board of supervisors.

G.     Dispatcher: an individual employed by an ambulance service operator who is responsible for sending an ambulance to provide ambulance service to a patient.

H.     Driver: an attendant who drives or pilots an ambulance.

I.     Emergency: a sudden, unforeseen event giving rise to a need for ambulance service with basic or advanced life support services and is a condition in which an individual has a need for immediate medical attention, or where the potential for such need is perceived by emergency medical personnel or a public safety agency.

J.     Exclusive Operating Area (EOA): as defined in Section 1797.85 of the Health and Safety Code, and which is established pursuant to Section 1797.224 of the Health and Safety Code.

K.     Emergency Service: ambulance service performed in response to an emergency.

L.     Fire Chief: fire chief of the Orange County Fire Authority.

M.     Health Officer: the county health officer or other official designated by the board of supervisors to perform the health officer's functions.

N.     Licensee: an ambulance service operator that has been granted a license under this chapter to provide ambulance service.

O. Medical Services: services provided by health care professionals licensed pursuant to the Business and Professions Code or as specified by regulations adopted pursuant to this chapter.

P. Paramedic: as defined in the Health and Safety Code.

Q. Patient: a wounded, injured, sick, invalid, or otherwise incapacitated person.

R. Physician: a medical doctor or osteopath holding the appropriate license or certificate to practice as such within the state pursuant to the Business and Professions Code.

S. Public Safety Agency: any public law enforcement agency, fire protection agency, or forest ranger operating in the county.

**§ 5.25.010 License Required.**

A. It shall be unlawful for any person to be an ambulance service operator, or to act in such a capacity either directly or indirectly, without obtaining a license pursuant to this chapter. A license may specify the geographical area within the city in which it is valid; provided, however, with respect to EOAs, reference to EOA by a specific number or similar identification shall be sufficient description of geographic limitation. A license shall be valid for not more than 1 calendar year or the expiration of the calendar year in which it was issued, whichever is shorter.

B. The provisions of this chapter shall not apply to:

1. Ambulance operated at the request of a public safety agency during any "state of war emergency," "state of emergency" or "local emergency" as defined in the Government Code.

2. Ambulance service transporting a patient from a location outside of the county, regardless of destination.

3. Ambulance service transporting a patient by a fixed wing airplane.

**§ 5.25.015 Transfer and Term of License.**

A. No license issued pursuant to this chapter shall be transferred by operation of law or otherwise. The following shall be considered transfers for purposes of this section.

1. Any change in the business structure of a licensee, including, but not limited to, changes from or to:

a. A sole proprietorship.

b. A partnership, including any change in the partners.

c. A corporation, including any change in the shareholders, whether by operation of law or otherwise.

2. Bankruptcy, an assignment for the benefit of creditors, or the appointment of a receiver.

3. A sale or transfer of 10% or more of the assets of a licensee.



B. A licensee may apply to the health officer for an amendment to the terms of the license, which request shall be processed in the same manner as an original application. Notwithstanding anything in this section to the contrary, licenses may be suspended, revoked, or terminated prior to the expiration date, pursuant to the provisions of this chapter.

**§ 5.25.020 Applications.**

A. Each application for a license shall be accompanied by such application fee as may be set by the board of supervisors, and shall be made upon forms prescribed by the health officer.

B. Each applicant shall submit the following:

1. The name and address of the applicant; the name and address of any person having any interest in the applicant's business; and the name and address of the owner or owners of any ambulance proposed to be used.

2. The applicant's training and experience in the transportation and care of patients.

3. The names under which the applicant has engaged, does, or proposes to engage in ambulance service.

4. A description of each ambulance including the make, model, year of manufacture, vehicle identification number, current state license number, the length of time the vehicle has been in use, and the color scheme, insignia, name, monogram and other distinguishing characteristics of the vehicle, a description of the applicant's program for maintenance of the vehicle, and a description of each vehicle's radio.

5. Proof that the applicant has obtained all licenses and permits required by state or local law or regulation for the type of ambulance service proposed, excluding only a license to provide the service for which application is made.

6. The names and qualifications of each attendant, driver, or dispatcher employed, or to be employed, in providing ambulance service.

7. Proof that the applicant possesses and maintains currently valid California Highway Patrol inspection reports for each vehicle listed in the application.

8. A description of the applicant's training and orientation programs for attendants, drivers and dispatchers.

9. Evidence of such financial responsibility and insurance coverage as may be required by the health officer pursuant to regulations adopted by the county.

10. Identification of the geographical area to be served by the applicant, if required by the department.

11. As to new applications or applications for transfer, a fingerprint receipt for each principal of the applicant issued by the county sheriff-coroner indicating each principal of the applicant has undergone a complete criminal history check, followed by a report from the county sheriff-coroner showing no conviction of crimes for which a license may be denied.

12. A list of all substations or offices where equipment and personnel are, or will be based, including hours of operations.

13. A description of whether the service proposed by the applicant will include basic life support or advanced life support services, and, if so:

a. The number of basic life support or advanced life support service units to be deployed on each shift.

b. The emergency response area or areas to receive basic life support or advanced life support service.

c. The provisions, if any, for continuing education of attendants.

14. Such other information as the health officer may require in regulations adopted by the county.

C. Renewal applications shall be submitted on such forms as may be prescribed by the health officer.

#### **§ 5.25.025 Investigations.**

Upon receipt of a completed application and the required fee, if any, the health officer shall make, or cause to be made, such investigation as the health officer deems necessary to determine if:

A. The applicant is a responsible and proper person to conduct, operate or engage in the provision of ambulance services.

B. The applicant meets the requirements of this chapter and of other applicable laws, ordinances or regulations.

#### **§ 5.25.030 Issuance or Denial of License.**

A. The health officer shall issue a license to an applicant if the health officer, after completing any investigation required pursuant to this chapter, determines all requirements of this chapter have been met and the license fee, if any, set by the board of supervisors, has been paid.

B. In the event of denial, the applicant shall be informed in writing of the reasons therefore.

C. The licensee shall obtain and keep in force, during the term of a license, comprehensive automobile liability insurance and professional liability insurance issued by a company authorized to do business in the state, acceptable to the health officer, insuring the owner against loss by reason of injury or damage that may result to persons or property from negligent operation or defective construction of any ambulance operated by licensee, or from violation of this chapter or any law of the state, or the federal government. The comprehensive automobile liability policy shall be in the sum of not less than \$500,000 for combined single limit, bodily injury and property damage. The professional liability insurance shall be in the sum of not less than \$1,000,000 per person and \$1,000,000 annual aggregate. Worker's compensation insurance shall be carried covering all employees of the licensee. Before the health officer shall issue a license, copies of the policies, or certificates evidencing such policies, shall be filed with the health officer. All policies shall contain a provision requiring a 30 day notice to be given to the department prior to cancellation, modification, or reduction in limits. The amount of comprehensive automobile liability insurance shall be subject to review and adjustment by the health officer pursuant to regulations adopted by the county. In the use of helicopters, the equivalent insurance requirements shall apply.

D. Grounds for denial of a license application shall be:

1. Failure to meet the requirements of any provisions of this chapter.
2. Violation by any principal of an applicant of Penal Code Section 290.
3. Habitual or excessive use of narcotics or dangerous drugs.
4. Conviction during the preceding 7 years of any crime relating to the use, sale, possession or transportation of narcotics, or additive or dangerous drug.
5. Habitual or excessive use of intoxicating beverages.
6. Conviction during the preceding 7 years of any crime punishable as a felony in the state.
7. Conviction of any crime involving moral turpitude, including fraud or intentional dishonesty for personal gain.

E. In determining the effect of any criminal acts on the issuance or denial of a license, the health officer shall consider whether the criminal acts are related to the activities of an ambulance service and shall evaluate the rehabilitation of the persons involved. The health officer shall not consider crimes of which the applicant is, or was, accused but not convicted.

**§ 5.25.035 License Suspension or Revocation.**

A. The health officer may suspend or revoke a license for failure by the licensee to comply, and maintain compliance with, or for violation of, any applicable provisions, standards or requirements of state law or regulation, of this chapter, or of any regulations promulgated by the county. Suspension of a license is not a condition precedent to revocation of a license.

B. Before suspension or revocation, the health officer shall give written notice to the licensee. The notice shall:

1. Specify the reasons for which the action is to be taken;
2. Set a hearing for not more than 15 days or less than 7 days after the date of the notice.
3. Specify the date, time and place of the hearing.
4. Be served on the licensee either by delivery to its principal place of business or to its designated agent for services of such notices, if any.

C. If the licensee, subsequent to service of a suspension or revocation notice under this section, remedies some or all of the conditions to which the notice refers, the health officer may rescind a notice of suspension or revocation at any time.

D. At the hearing, the health officer has the burden of proof and may present evidence as to why such action should be taken and to answer the evidence presented by the licensee.

E. The health officer may reduce the period of time for hearing under a suspension or revocation notice to no less than 24 hours when the health officer makes written preliminary findings that such action is necessary to protect the public health, safety and welfare. When, as a

result of such an emergency proceeding, a license is suspended or revoked, the licensee will have the burden of establishing renewed compliance justifying reinstatement of the license. Such additional hearing will be commenced within 5 days of the licensee's request. The request for, and the scheduling of, an additional hearing shall not stay operation of the suspension or revocation order.

F. Hearings conducted pursuant to this section shall be conducted before a hearing officer designated by the department. At the conclusion of the hearing, the hearing officer shall expeditiously prepare a written summary of the evidence and proposed findings and conclusions for consideration by the director of the department.

G. The director of the department shall issue a written decision within 30 days after receiving the hearing officer's findings and conclusions.

#### **§ 5.25.040 Appeal to Board of Supervisors.**

In the event of denial, suspension, or revocation of a license, the applicant or licensee shall have the right to request a hearing before the board of supervisors, which hearing shall be requested and conducted in the manner specified in Section 5-2-19 of the county code.

#### **§ 5.25.045 Notification.**

The licensee shall notify the health officer within 24 hours after any change in ownership of more than 24 hours duration, or any substantial change in staffing or equipment. For purposes of this section the term "substantial change" shall be as defined by regulation adopted by the county.

#### **§ 5.25.050 Personnel Standards.**

A. A licensee shall only employ personnel performing tasks described in this chapter who comply with the requirements of this section.

B. Attendants shall be at least 18 years of age and trained and competent in the proper use of all equipment, and shall hold current Emergency Medical Technician-1A ("EMT-1A") or state educational equivalent certification in compliance with all state laws, rules and regulations. Additionally, each attendant shall hold a license from the health officer indicating compliance with this section. Applications for such licenses shall be in a form required by the health officer and shall be accompanied by the fee, if any, established therefore. All applicants for licenses as an attendant shall be subject to the same criminal history review as required by principals of ambulance companies no less than once every 4 years. Certificates may be denied, suspended, or revoked in the same manner as that specified for ambulance service licensees in this chapter. Licenses shall be valid for 2 years from the date of issuance or certification as an Emergency Medical Technician-1A, whichever is less. Renewal of a license shall be in the same manner as issuance of a new license.

C. Each licensee shall have at least one dispatcher. Emergency ambulance service licensee shall have a dispatcher on a 24 hour-per-day basis and shall adequately train the dispatcher in radio operation and protocols and in the emergency response area served before said dispatcher begins dispatching emergency calls. For purposes of this section, "adequate" training of a dispatcher shall be that which meets state standards, if any, or county requirements.

D. Ambulance drivers shall, in addition to the requirements of this chapter for attendants, maintain an appropriate license issued by the California Department of Motor Vehicles and, if applicable, the Federal Aviation Administration.

**§ 5.25.055 Rates.**

No licensee shall charge more than the maximum BLS rates approved by the board of supervisors. No licensee shall charge more than the maximum ALS rates approved by the board of supervisors or the Orange County Fire Authority ("authority").

**§ 5.25.060 Selection of Ambulance Service Licensees.**

A. The authority shall administer the competitive process for the award of EOA contracts within the city. The authority shall select and enter into contracts with licensees for the provision of ambulance service in response to emergencies in each EOA. The contracts shall provide for one primary contractor per EOA, with such other back-up service by other emergency ambulance service providers as may be deemed necessary by the fire chief. In awarding these contracts, the authority shall consider the comparative value of competing proposals in the same fashion as would be the case were the county evaluating proposals from prospective service providers for other governmental activities, including consideration of:

1. The quality of service to be provided.
2. The level of service to be provided.
3. The rates charged for services to be provided.
4. The cost, if any, to the awarding agency.

B. The fire chief shall administer the contracts for ambulance service. The fire chief shall also prepare and keep current EOA lists specifying contract providers for each EOA. The fire chief shall include on the list for each EOA the provider that has entered into an ambulance service agreement as the primary contractor as well as any other emergency ambulance service provider who will provide back-up emergency ambulance service for that area.

C. In the event no proposals acceptable to the authority are received for one or more EOAs, the authority shall designate one or more licensees to provide emergency ambulance service for that EOA. From the date of such designation until a contract is awarded for the affected area, provision of emergency ambulance service shall be an express condition of the license and unreasonable or unjustified refusal of any emergency calls shall be a violation of this chapter.

D. No person shall provide ambulance service in response to, or as a result of, an emergency, unless that person is a licensee and is specified in each instance by a physician or public safety agency. A licensee thus specified by a physician or a public safety agency need not be a contractor selected by the city pursuant to this section. Any ambulance service operator receiving a request for emergency ambulance service from other than a public safety agency shall immediately, by telephone, notify a public safety agency designated by regulation of the request.

E. No licensee responding to an emergency shall transport a patient unless at least 1 of the following is true:

1. A paramedic is present at the location of the patient.
2. A physician is present at the location of the patient and directs transportation in the absence of a paramedic.

3. A safety qualified employee of the county fire authority, or an appropriate employee of a public safety agency designated by county regulation, directs transportation in the absence of a paramedic.

F. Unless otherwise directed by a physician present at the location of the patient, a licensee shall transport a patient pursuant to regulations adopted by the county.

**§ 5.25.065 Rules and Regulations.**

A. Rules and regulations to implement the provisions of this chapter may be adopted by the health officer, the fire chief, or other officers designated by the county in accordance with procedures specified by the county, and all licensees shall be bound by such rules and regulations.

B. The health officer or the fire chief or their designees may inspect the records, facilities, transportation units, equipment and method of operations of each licensee whenever necessary and, by the health officer, at least annually.

**§ 5.25.070 Complaints.**

The city, the department, any user, subscriber, public safety agency or consumer who believes, or has reason to believe, that it or another party has been required to pay an excessive charge for services, received inadequate services or that services provided were not in compliance with the provisions of this chapter, may file a written complaint with the department setting forth such allegations. The department shall notify the ambulance service operator of such complaint. The ambulance service operator shall file a written response within 15 days after receipt of notification.

**§ 5.25.075 Variance.**

As to all but the selection of ambulance service licensees, the health officer may grant variances from the requirements of this chapter if such action is necessary to protect the public health, safety or welfare. As to the selection of ambulance service licensees, the fire chief may grant variances from the terms thereof if such action is necessary to protect the public health, safety or welfare. Variances granted by the health officer may include the issuance of a temporary license. No variance shall exceed 180 days in duration.

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## **Chapter 5.30 Charitable Solicitation**

### **§ 5.30.005 Definitions.**

For the purpose of this chapter, the following words and phrases shall mean:

A. Captive Audience: a person who is sitting in an outdoor dining area, standing in line, waiting at a bus stop or is similarly stationary for a specific purpose that does not allow evasion of a charitable solicitation.

B. Charitable Solicitation: a request for donation of money, food or property on the representation that all or a portion of the donation will be used for charitable purposes. A charitable solicitation shall be deemed complete when made regardless of whether a donation is received by the requestor.

C. Director: director of administrative services.

D. Permittee: a person who has been issued a charitable solicitation permit pursuant to this chapter.

E. Solicitor: a person utilized by a permittee to conduct a charitable solicitation by means of in-person contact with prospective donors.

### **§ 5.30.010 Charitable Solicitation Permit Requirement.**

No person shall conduct a charitable solicitation without first obtaining, and maintaining in full force and effect, a charitable solicitation permit. When a charitable solicitation permit has been issued, solicitors utilized by the permittee need not obtain their own charitable solicitation permit.

### **§ 5.30.015 Exemptions.**

The provisions of this chapter shall not apply to charitable solicitations conducted as follows:

A. Upon premises owned or occupied by the person or organization making the charitable solicitation.

B. For the relief of one or more specific individuals, provided that such beneficiaries are identified by name and the entire donation is tendered to them.

C. Of persons who are members of the organization making the charitable solicitation.

D. By mail.

### **§ 5.30.020 Charitable Solicitation Permit Application.**

A charitable solicitation permit application shall be submitted to the director. The application consists of the application fee and the following:

A. A city-provided application form containing: (i) the applicant's name, mailing address and phone number; (ii) the name, mailing address and phone number of each solicitor who will be utilized in connection with the proposed charitable solicitation; (iii) a description of the location, time and method of the proposed charitable solicitation; and (iv) a list of charitable

solicitation-related permits that the applicant currently holds or has had suspended or revoked by another governmental entity.

B. Two passport-size color photographs that clearly show the applicant's face.

C. Two passport-size color photographs of each solicitor, clearly showing the face of such person, who will be utilized in connection with the proposed solicitation.

D. The applicant's fingerprints on a police department-provided form. If the applicant is a corporate entity, the official supervising the proposed charitable solicitation shall provide the fingerprints.

E. A statement signed by the applicant certifying under penalty of perjury that the information submitted in connection with the application is true and correct. If the applicant is a corporate entity, the official supervising the proposed charitable solicitation shall sign the statement.

#### **§ 5.30.025 Approval or Denial of Charitable Solicitation Permit.**

A. Director's Decision. The director shall, within 10 city business days of the filing of an application, approve and issue the charitable solicitation permit if there are no grounds for denial; otherwise the permit shall be denied. Notice of the approval or denial of the permit shall be given to the applicant in writing. If the application is denied, the director shall attach to the notice a statement of the reasons for the denial. The times set forth in this section shall not be extended except upon written consent of the applicant.

B. Grounds for Denial. The director may deny an application for a charitable solicitation permit upon any of the following grounds:

1. Failure to complete the application.
2. Knowing submission of a misleading or fraudulent statement of material fact.
3. Failure to file a post-solicitation report for a previous charitable solicitation conducted within one year prior to the date of the application.
4. The applicant, or a person affiliated with the applicant's partnership or corporation, has had a charitable solicitation permit revoked by the city within one year prior to the date of the application.

C. Permit Term. Each charitable solicitation permit shall expire 60 days from the date of issuance unless earlier revoked.

#### **§ 5.30.030 Charitable Solicitation Permit Revocation.**

The director may revoke a charitable solicitation permit if the authorized charitable solicitation is being conducted in violation of this chapter. Revocation shall not be effective until written notice of the reasons therefore has been given to the permittee and until a hearing has been conducted if timely requested by the permittee.



**§ 5.30.035 Non-transferability.**

No charitable solicitation permit shall be transferable. Any attempt to transfer a charitable solicitation permit shall automatically render the permit void as of the date of such attempted transfer.

**§ 5.30.040 Identification Card.**

Each solicitor shall conspicuously display a city-provided identification card while conducting a charitable solicitation. Identification cards shall be issued free of charge and shall contain the following information.

1. The name and address of the permittee on whose behalf the solicitor is making the charitable solicitation.
2. The number, date of issuance and expiration date of the charitable solicitation permit authorizing the charitable solicitation.
3. A statement indicating that the city does not endorse the charitable solicitation.

**§ 5.30.045 Post-Solicitation Report.**

Within 30 days of the expiration of a charitable solicitation permit, the permittee shall submit to the director a post-solicitation report. The report shall indicate the amount of funds raised through the charitable solicitation, the amount expended conducting the charitable solicitation (including any compensation paid to solicitors) and the disposition of the funds. The report shall contain a statement signed by the permittee certifying under penalty of perjury that the information set forth therein is true and correct. If the permittee is a corporate entity, the official supervising the charitable solicitation shall sign the statement.

**§ 5.30.050 Operation Standards.**

Each permittee and solicitor shall conduct a charitable solicitation in accordance with the operation standards set forth below. Noncompliance with such standards shall constitute grounds for criminal citation and for revocation of a charitable solicitation permit.

- A. No solicitor shall affix an object to a prospective donor without such person's consent.
- B. No solicitor shall conduct a charitable solicitation of a prospective donor after such person has refused to make a donation.
- C. No solicitor shall disrupt the operation of a lawful business.
- D. No solicitor shall obstruct the free movement of a prospective donor.
- E. No solicitor shall place a table, chair, signboard or similar object upon any city street or sidewalk.
- F. No solicitor shall conduct a charitable solicitation of a captive audience.
- G. No solicitor shall conduct a charitable solicitation upon residential premises that contain a conspicuously posted sign stating "no solicitation" or "do not disturb."

H. A solicitor shall provide a written receipt to each donor who tenders a contribution worth \$5 or more.

I. No solicitor shall make a misleading or fraudulent statement of material fact in connection with a charitable solicitation.

**§ 5.30.055 Appeals.**

Decisions of the director to issue, deny issuance or revoke a charitable solicitation permit shall be subject to the administrative review procedure of chapter 1.20 of this code. The city manager shall be the hearing officer for purposes of such procedure and may not delegate such responsibility. The city manager's administrative review decision shall be final and shall not be subject to council review pursuant to chapter 1.20 of this code.

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## **Chapter 5.35 Filming Activities**

### **§ 5.35.005 Definitions.**

For the purpose of this chapter, the following words and phrases shall mean:

- A. Film Development Office: city personnel designated by the city manager to process film permit applications.
- B. Filming Activity: all activity attendant to the staging and recording of commercial advertisements, motion pictures or television programs.

### **§ 5.35.010 Film Permit Requirement.**

It is unlawful for any person to conduct filming activity on city property without first obtaining, and continuing to maintain in full force and effect, a film permit for such activity.

### **§ 5.35.015 Film Permit Application.**

A film permit application shall be submitted to the film development office. The application consists of the application fee and the following:

- A. A city-provided application form.
- B. A city-provided indemnification agreement.
- C. Written proof of insurance.

### **§ 5.35.020 Approval or Denial Of Film Permit.**

A. Decision. The film development office shall, within 10 city business days of the filing of an application, approve and issue the film permit if there are no grounds for denial; otherwise the permit shall be denied. Notice of the approval or denial of the permit shall be given to the applicant in writing. If the application is denied, the film development office shall attach to the notice a statement of the reasons for the denial. The times set forth in this section shall not be extended except upon written consent of the applicant.

B. Grounds for Denial. The film development office may deny an application for a film permit on any of the following grounds:

- 1. Failure to submit a complete application.
- 2. Knowing submission of a misleading or false statement of material fact.
- 3. The proposed filming activity will unduly interfere with governmental operations, pedestrian movement, vehicular traffic, or a previously scheduled activity.

### **§ 5.35.025 Film Permit Conditions.**

The film development office may approve a film permit subject to compliance with content neutral conditions regarding the time, place and manner of the filming activity as deemed necessary to protect the public health, safety and welfare.

**§ 5.35.030 Security Deposit.**

Film permit recipients shall submit a cash or bond security deposit to guarantee prompt restoration of city property used in connection with the filming activity. The amount of such bond shall be determined by the film development office based solely on the city property involved and the size of the filming activity.

**§ 5.35.035 Insurance.**

A. Requirement. On or before commencement of any filming operations, the permittee shall submit to the city manager certificates confirming the procurement of liability and workers' compensation insurance in accordance with this section from companies authorized to transact business in the state.

B. Liability Insurance. The policy of liability insurance shall:

1. Be issued by an insurer with a current rating A.M. Best's rating of A:VII or better.
2. Name the city and its officers, agents and employees as additional insured.
3. Be primary and provide that any insurance maintained by the city shall be excess insurance.
4. Indemnify for all liability for personal and bodily injury, death and damage to property arising from activities conducted in connection with the filming operations.
5. Provide coverage for:
  - a. Negligent acts or omissions of the permittee and the agents, servants and employees thereof, committed in the conduct of filming operations.
  - b. Provide a combined single limit liability insurance of at least \$1,000,000.

C. Workers' Compensation Insurance. The policy of workers' compensation insurance shall:

1. Be approved by the California Insurance Commissioner as to substance and form.
2. Cover all permittee employees who perform work on the filming operations.

**§ 5.35.040 Disciplinary Action.**

A. Suspension. Public safety personnel may summarily suspend a film permit if the activity poses an immediate hazard to persons or property. The filming development office may reinstate the permit upon elimination of the hazard.

B. Revocation. Following notice and, if requested, a hearing, the film development office may revoke a film permit for the following causes:

1. Knowing submission of a misleading or false statement of material fact in the application.
2. Failure to comply with a condition of the permit.

**§ 5.35.045 Exemptions.**

This chapter shall not apply to filming activities conducted for news purposes or for use in a criminal investigation or court proceeding.

**§ 5.35.050 Appeals.**

Decisions of the film development office or public safety personnel to issue, deny issuance or impose disciplinary action in connection with a film permit shall be subject to the administrative review procedure of chapter 1.20 of this code. The city manager shall be the hearing officer for purposes of such procedure and may not delegate such responsibility. The city manager's administrative review decision is final and shall not be subject to council review pursuant to chapter 1.20 of this code.

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## **Chapter 5.40**

### **Food Handling Businesses and Health Services Fees**

#### **§ 5.40.005      Definitions.**

The following terms used this chapter shall have the meanings indicated below.

- A.     Certified Farmer's Market: as defined in the Health and Safety Code.
- B.     Commissary: as defined in the Health and Safety Code.
- C.     Food Establishment: as defined in the Health and Safety Code.
- D.     Food Facility: as defined in the Health and Safety Code.
- E.     Food Processing Establishment: as defined in the Health and Safety Code.
- F.     Health Department or Department: the Orange County Health Care Agency.
- G.     Health Officer: the county health officer or his or her deputy.
- H.     Inspector: an environmental health specialist, as defined in the Health and Safety Code, employed by the health department, or the health officer or any deputy health officer authorized to inspect premises or equipment for the enforcement of this chapter.
- I.     Mobile Food Preparation Unit: as defined in the Health and Safety Code.
- J.     Open-Air Barbecue Facility: as defined in the Health and Safety Code.
- K.     Person: as defined in the Health and Safety Code.
- L.     Premises: includes land, buildings, vehicles and ships and other vessels wherein food is handled, stored, distributed, prepared, processed, served or sold, and also equipment installed or used in food establishments or food facilities or on such premises.
- M.     Produce Stand: as defined in the Health and Safety Code.
- N.     Restricted Food Service Transient Occupancy Establishment: as defined in the Health and Safety Code.
- O.     Satellite Food Distribution Facility: as defined in the Health and Safety Code.
- P.     Temporary Food Facility: as defined in the Health and Safety Code.
- Q.     Vehicle: as defined in the Health and Safety Code.
- R.     Vending Machine: as defined in the Health and Safety Code.
- S.     Vending Machine Business: the business of selling food or beverages by means of vending machines, regardless of the number of locations at which the vending machines are located.

**§ 5.40.010 Permit Required – Conditions and Terms.**

A. It shall be unlawful for any person to operate any food facility, vending machine business, food processing establishment, or any other food handling business governed by this chapter, without first applying for and receiving a food vending permit issued by the health department under the provisions of this chapter.

B. Every applicant for a food vending permit shall file with the health department a written application that shall state the name and address of the applicant, the character and location of the activity for which a permit is required under this chapter and such other information as the health department may require. Applicants for a permit to operate a mobile food preparation unit shall, in addition, provide a list of 3 service stops that shall include the address of exact location and time of each stop.

C. A permit may be issued when investigation has determined that the proposed facility and its method of operation will conform to all applicable laws and regulations. A permit, once issued, is nontransferable. A permit shall be valid only for the person, location, type of food sales, or distribution activity approved and, unless suspended or revoked, for the time period indicated.

D. Any permit may be suspended or revoked for a violation of any applicable provisions of law or regulation. Any food facility, vending machine business, food processing establishment, or any other food handling business governed by this chapter, for which the permit has been suspended or revoked shall close and remain closed until the permit has been reinstated or until a new permit has been issued.

E. Permits may be granted at any time during the year. A permit shall be posted in a conspicuous place on the premises or vehicle for which it is issued.

**§ 5.40.015 Construction, Conversion and Alteration.**

A person proposing to build or remodel a food facility, vending machine business, food processing establishment, or any other food handling business governed by this chapter, shall submit 3 copies of the complete plans and specifications to the department for review and approval pursuant to the applicable requirements of the Health and Safety Code. The health officer may thereafter issue a certificate stating what modifications, if any, are required for compliance with applicable laws and ordinances.

**§ 5.40.020 Suspension of Permits.**

A permit issued under this chapter or its predecessor may be suspended or revoked under the procedure set forth in this chapter for any of the following reasons:

- A. Violation of state law.
- B. Violation of this chapter.
- C. Violation of the rules and regulations adopted pursuant to this chapter.
- D. Upon recommendation by the health officer.

**§ 5.40.025 Notice of Violation.**

When any laws, this chapter, or rules and regulations have been violated, an inspector may serve written notice thereof entitled "Notice of Violation," specifying:



- A. The acts or omissions with which the permittee is charged.
- B. The provision or provisions violated thereby.
- C. The corrective steps required.
- D. The date by which all such corrections must be completed, allowing a reasonable period therefore.
- E. That the permittee has a right to a hearing upon written request or that a mandatory hearing has been scheduled.
- F. That if no hearing is requested or the permittee fails to appear at the scheduled hearing and if the health department does not receive notice that all such corrections have been made before 9:00 a.m. of the date specified under paragraph D above, the permit will be subject to suspension or revocation from that time until all violations have been corrected.

**§ 5.40.030 Hearing.**

The hearing shall be held by the health officer or his or her duly authorized representative who is a qualified environmental health specialist as defined in the Health and Safety Code and registered as provided in such code, but shall not be the inspector who reported the violations or who inspected any corrective measure taken.

A. The permit holder shall have the right to a hearing, if requested, on all violations listed in the notice. A written request for a hearing shall be made by the permittee within 15 days after receipt of the notice. A failure to request a hearing within 15 days after receipt of the notice shall be deemed a waiver of the right to a hearing. When circumstances warrant, the hearing officer may order a hearing at any reasonable time within this 15 day period to expedite the permit suspension or revocation process.

The hearing shall be held within 15 days of the receipt of a request for a hearing. Upon written request of the permittee, the hearing officer may postpone any hearing date if circumstances warrant such action.

B. At the conclusion of the hearing, the hearing officer shall issue a written notice of decision to the permittee within 5 working days following the hearing. In the event of a suspension or revocation, the notice shall specify the acts or omissions with which the permittee is charged, and shall state the terms of the suspension, or that the permit has been revoked.

The health officer may, after providing opportunity for a hearing, modify, suspend, or revoke a permit for serious or repeated violations of any of the requirements of the applicable laws, rules and regulations.

**§ 5.40.035 Mobile Food Preparation Units Generally.**

In addition to all other applicable provisions of the Health and Safety Code and of this chapter, mobile food preparation units shall comply with the following safety requirements:

A. Compressors, auxiliary engines, generators, batteries, battery chargers, gas-fueled water heaters, and similar equipment shall be installed so as to be accessible only from the outside of the unit.

B. All equipment installed in any part of the unit shall be secured so as to prevent movement during transit and to prevent detachment in the event of a collision or overturn.

C. All equipment installed within the interior of the unit, including the interiors of cabinets or compartments, shall be constructed so as to be free of sharp or jagged edges.

D. All utensils shall be stored so as to prevent their being hurled about in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided to avoid loose storage of knives in cabinets, boxes, or slots along counter aisles. Knife holders shall be designed to be easily cleaned and be manufactured of materials approved by the health officer.

E. Ceiling light fixtures shall be recessed or flush mounted and sealed and shall be equipped with safety covers approved by the health officer. The minimum clearance from the floor to the light fixtures shall be at least 188 centimeters (76 inches) or the fixture shall be installed out of the traffic aisle or work area.

F. High voltage (110-220v) electrical wiring shall be properly installed in electrical conduit with all splices or connections being made within junction, outlet, or switch as to prevent the use of extension cords exceeding 183 centimeters (6 feet). Outside electrical connection receptacles shall be of weatherproof design with cover.

G. Attached, firmly anchored seats with backrests, equipped with seat belts, shall be provided for all occupants. If a jump seat in the aisleway is utilized, it shall fold in a manner that will clear the aisleway when not in use and be held with a self-latching mechanism. Seats and backrests shall be at least 35.5 centimeters by 35.5 centimeters (14 inches x 14 inches) in size. All occupants shall be seated, shall wear seat belts and shall not cook or prepare food while the unit is in motion. Signs setting forth the latter 3 requirements shall be posted in both English and Spanish.

H. A first-aid kit approved by the health officer shall be provided and located in a convenient area in an enclosed case.

I. All pressure cylinders shall be securely fastened to a rigid structure of the unit. All liquefied petroleum (LP) gas equipment shall be installed as follows:

1. The LP gas tanks and relief valves shall be ASME-approved for intended use.

2. Tanks shall be securely fastened and located where they will normally not be subject to damage. They may be in a body compartment or underneath the body. The tank or fittings must not protrude beyond the body.

3. Tanks and regulators shall be separated from any open flame by a vapor-tight partition.

4. When tanks are installed in a body compartment, the partitions shall be sealed off from the rest of the body with no openings to the interior except for the tubing. The following additional requirements shall be met:

- a. All tank valves and fittings shall be readily accessible from outside the unit.

- b. The tank safety relief valve shall be vented to the outside and directed downward.

c. The filling shall be done through an outside door to the compartment.

d. The compartment shall be vented to the exterior of the unit so as to prevent accumulation of gas.

5. Tubing that passes through partitions shall be protected by grommets made of rubber or other approved materials.

6. Tubing exposed to friction shall be protected against chafing.

7. Expansion and contraction bends shall be made in the tubing between the tank and the appliance.

8. ASME-approved LP gas tubing or standard weight pipe shall be used throughout.

9. Protective "thread" caps shall be installed on fill-line check valves.

10. Every appliance fueled by LP gas shall be equipped with a pilot light attachment and provided with an ASME-approved device that will automatically shut off all gas to the appliance if the pilot light should be extinguished.

J. A minimum 5 B.C.-rated portable fire extinguisher (Underwriters Laboratories or State Fire Marshall approved design) shall be installed in plain sight and within easy reach, immediately inside the front driver's door. The extinguisher shall be replaced or recharged after each use.

**§ 5.40.040 Additional Requirements for Mobile Food Preparation Units Operating in Multi-Locations in Any Day.**

In addition to other applicable requirements, mobile food preparation units that operate at more than one location in any calendar day shall comply with the following additional requirements:

A. Coffee urns shall be installed in a compartment that will prevent excessive spillage of coffee in the interior of the unit in the event of a sudden stop, collision, or overturn, or, as an alternative to this requirement, coffee urns shall be equipped with positive closing lids as well as perforated metal protective sleeves on the glass liquid level sight gauges.

B. Deep fat fryers are prohibited, unless equipped with positive closing lids to contain the fat and to prevent splashing or excessive spillage in transit or in the event of a sudden stop, collision or overturn of the unit. Such lids shall be designed and constructed so as to prevent pressure buildup that could result in an explosion. All lids shall be kept positively closed while the unit is in motion. Signs setting forth the latter requirements shall be posted in both English and Spanish.

C. Water bath or steam food insert tables shall be provided with baffles to prevent surging in transit. All such tables, as well as dry heat units, their insert food containers and similar equipment that contains hot liquids or hot foods shall have positive closing lids to contain all such liquids or foods and to prevent splashing or spillage in transit or in the event of a sudden stop, collision, or overturn of the unit. Such lids shall be designed and constructed so as to prevent pressure buildup that could result in an explosion. All lids shall be positively closed while the unit is in motion. Signs setting forth the latter requirement shall be posted in both English and Spanish.

D. An alternate means of exit in the side opposite the main exit door, or the roof, or the rear of the unit, with unobstructed passage of 61 centimeters by 92 centimeters (24 inches by 36 inches) minimum to the outside, shall be provided. The interior latching mechanism shall be operable by hand without special tools or key. The exit shall be labeled "Safety Exit" in contrasting colors with at least 2.54 centimeters (1 inch) high letters.

#### **§ 5.40.045 Suspension for Refusal of Entry.**

It shall be a violation of this chapter for any person to deny or hinder entry by any inspector for the purpose of inspection of any premises, or any portion thereof; and in such event the inspector may forthwith suspend the food vending permit issued for the premises.

#### **§ 5.40.050 Summary Suspension.**

A. If any immediate danger to the public health or safety is found, unless the danger is immediately corrected, an inspector may temporarily suspend the permit and order the premises immediately closed. "Immediate danger to the public health and safety" means any condition, based upon inspection findings or other evidence, that can cause food infection, food intoxication, disease transmission, or hazardous condition, including but not limited to unsafe food temperature, sewage contamination, non-potable water supply, or an employee who is a carrier of a communicable disease.

B. Whenever a permit is suspended as the result of an immediate danger to the public health or safety, the inspector shall issue to the permittee a notice setting forth the acts or omissions with which the permittee is charged, specifying the pertinent code section, and informing the permittee of the right to a hearing.

C. At any time within 15 days after service of a notice pursuant to paragraph B, the permittee may request in writing a hearing before a hearing officer to show cause why the permit suspension is not warranted. The hearing shall be held within 15 days of the receipt of a request for a hearing. A failure to request a hearing within 15 days shall be deemed a waiver of the right to such hearing.

#### **§ 5.40.055 Supervision of Closing Down Premises.**

When any permit is 1st suspended hereunder, or when any premises governed hereby shall have been closed for business and left in an unsanitary condition, the health department shall have the power to enter to ensure that the premises are closed down in a manner which will not endanger the public health. If the permittee or employee in charge cannot be found, or is unwilling or unable to remedy the condition of the premises, the owner of the premises shall be notified of the unsanitary conditions and shall be required to take such remedial action as may be necessary to obviate such condition.

#### **§ 5.40.060 Rules and Regulations.**

The health officer may adopt and enforce rules and regulations necessary to administer this chapter including, but not limited to, regulations pertaining to:

- A. Forms for applications, permits and notices.
- B. Forms and procedures for hearings upon the granting, denying, suspending, revoking or reinstating of permits.
- C. Inspection of premises and reporting thereon.

**§ 5.40.065      Preemption.**

This chapter shall not apply to any matter to which it concerns to the extent that the regulation of such matter is preempted by state law.

**§ 5.40.070      Health Services Fee.**

A.      Definitions. For the purpose of this section, the following words and phrases shall mean:

1.      Person: an individual, partnership, corporation or other legal entity.
2.      Receipt: a county public health services fee receipt.

B.      Purpose and Authority. The purpose of this section is to establish fees sufficient to meet the reasonable expenses of the health officer in enforcing state statutes, orders, quarantines and rules and regulations of state offices and departments relating to public health, which expenses are hereby found not to be met by the fees prescribed by the state. The authority for this article is contained in the Health and Safety Code.

C.      Area of Application. This section shall be enforceable within the territory in which the health officer enforces any state statute, order, quarantine or rule or regulation of any state office or department relating to public health within the city.

D.      Violation. It shall be unlawful for any person to conduct any activity enumerated in this chapter without a valid receipt.

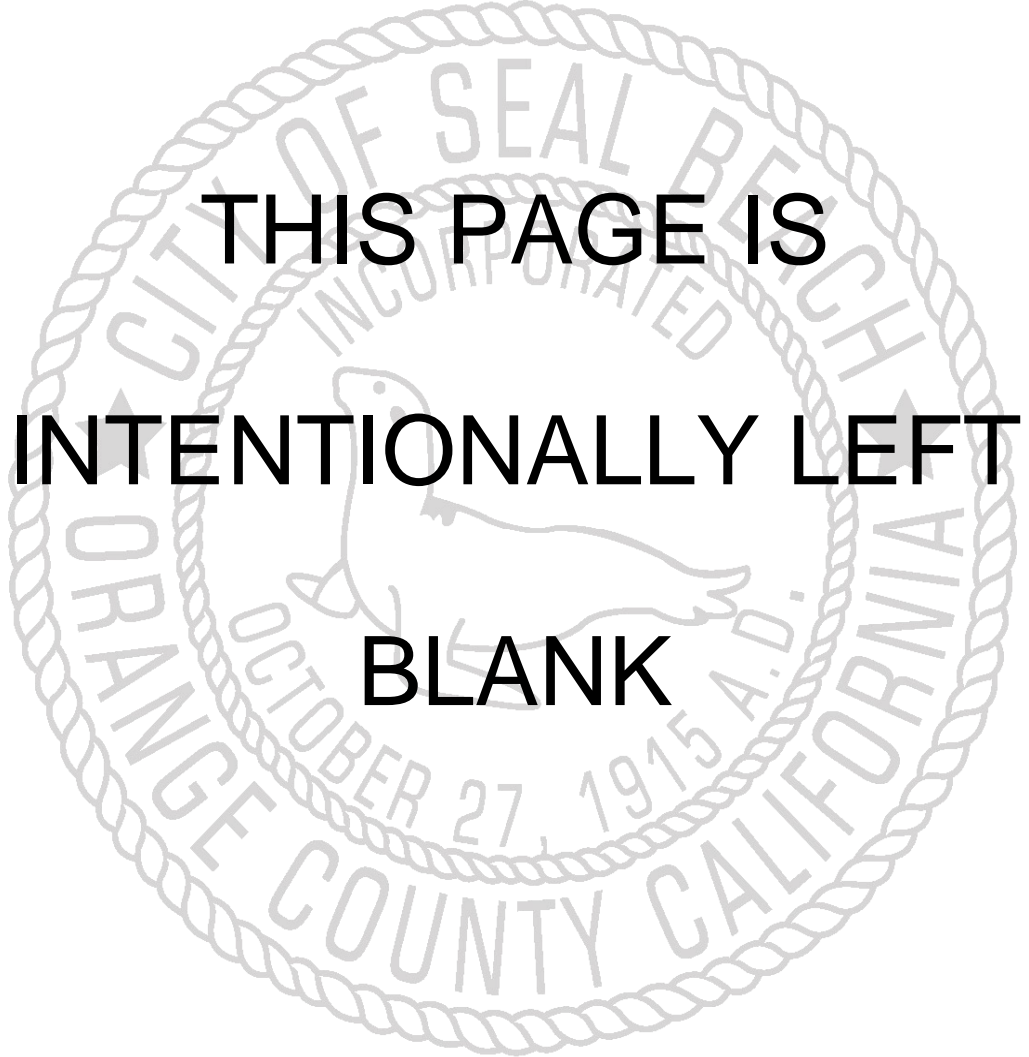
E.      Separate Activities. If a person shall conduct multiple activities for which a receipt is required, then a separate receipt shall be obtained for each activity, except as otherwise provided herein.

F.      Applications. Applications for a receipt shall be filed with the health department on a form to be provided by the department. The applications shall be accompanied by payment of the required fee. An applicant for or recipient of a receipt shall provide the health officer with any information requested by him or her.

G.      Rules and Regulations. The health officer shall administer this section and may issue regulations and prepare application and identification forms pertaining thereto.

H.      Fees. The county shall, by annual board of supervisors' resolution, adopt health services fees to be paid by the proprietor or operator of the food facility. Such fees are to be paid directly to the county health officer and retained by the county as reimbursement for said services related to this chapter.

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## **Chapter 5.45**

### **Massage Establishments**

(Ord. No. 1558)

#### **§ 5.45.005 Definitions.** (Ord. No. 1587)

For the purposes of this Chapter, the following words and phrases shall mean:

A. Certified Massage Establishment: any massage establishment that either: (i) is operated as a sole proprietorship by a proprietor who is currently a State Certified Massage Professional and is the only person employed by the business to provide massage; or (ii) employs or uses only persons who are State Certified Massage Professionals to provide massage.

B. Chief: Seal Beach Chief of Police of his or her designee.

C. Customer: all persons on the premises during the operating hours who are not the applicant, the applicant's officers or employees or vendors.

D. Designated Managing Officer: the natural person designated by a corporation or partnership as the applicant on the application for a massage establishment permit and the co-permittee upon the issuance of a massage establishment permit.

E. Employee: any person who is employed by a massage establishment.

F. Health Officer: The Orange County Health Department officer responsible for inspecting massage establishments in Seal Beach, or his/her designee.

G. Massage: any method of treating the external parts of the body for remedial, health, or hygienic purposes. Massage includes, but is not limited to, massage by means of pressure, friction, stroking, kneading, rubbing, tapping, pounding; massage by means of stimulating the external parts of the body with any mechanical or electrical apparatus or appliances, or with rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations; and massage by means of baths, including, but not limited to, Turkish, Russian, Swedish, Japanese, vapor, shower, electric or magnetic massages, alcohol rubs, or any other type of system for treating or manipulating the human body with or without the character of a bath. Massage includes acupuncture, aromatherapy, and reflexology.

H. Massage Establishment: any establishment having a fixed place of business where any person engages in, conducts, or carries on, or so permits, any business giving a massage, including but not limited to Certified Massage Establishments.

I. Massage Technician or Massage Trainee: any person who administers a massage to another person, for consideration, including but not limited to State Certified Massage Professionals.

J. State Certified Massage Professional: any person certified as a Massage Practitioner or Massage Therapist pursuant to Section 4601 of the California Business & Professions Code or any successor statute.

#### **§ 5.45.010 Applicability of Chapter.**

A. The provisions of this Chapter shall not apply to the following persons when engaged within the scope of their respective professional duties:

1. Physicians, surgeons, chiropractors, osteopaths, or physical therapists that are duly licensed to practice their respective professions in the state of California.

2. Nurses registered under the laws of the state of California.

3. Barbers and beauticians who are duly licensed under the laws of the state of California. This provision shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client.

4. The medical staff of hospitals, nursing homes, sanitariums, or other health care facilities duly licensed by the state of California.

5. Coaches and trainers of accredited high schools, junior colleges and colleges.

6. Trainers of amateur, semi-professional or professional athletes or athletic teams.

B. The provisions of this Chapter shall apply to independent contractors of such persons if the independent contractor is engaged in, or purports to be engaged in, the business of massage.

**§ 5.45.015 (Reserved).**

**§ 5.45.020 Out Call Massage Service: Illegal.**

No person shall engage in out call massage or to operate business providing out call massage.

**§ 5.45.025 Massage Establishments: Permit Required.**

It is unlawful for any person to operate a massage establishment without first obtaining, and maintaining in full force and effect, a massage establishment permit for such business, in addition to any other license or permit required by the City.

**§ 5.45.030 Massage Establishments: Permit Application.**

A. An applicant for a massage establishment permit shall submit to the Police Chief an application and a non-refundable application fee in an amount established by City Council Resolution. The applicant shall include a copy of the fee receipt with the application.

B. The application fee shall be in addition to any other business license or tax, permit fee or any fee required by this Code.

C. The applicant shall not operate its proposed massage establishment until the City has issued all necessary permits and licenses.

D. The application shall include, under penalty of perjury that all of the information submitted is true and correct:

1. The applicant's full true name, any other names used; date of birth, any other date of birth used; sex, height, weight, color of hair, color of eyes; California Driver's License number, or California Identification number; Social Security number, present residence address and telephone number. In addition, the applicant shall submit 2 photographs of the



applicant that meet Police Department requirements and, if required by the Police Chief, his or her fingerprints.

2. The applicant's residences, and the dates thereof, for the prior 5 years.
3. The applicant's business, occupation, and employment history and the dates thereof, for the prior 5 years.
4. The applicant's entire permit and license history, and the dates and types thereof, including any permit or license issued for a massage establishment, massage technician or adult business. The applicant shall indicate whether any such permit or license was revoked or suspended and, if so, the reasons.
5. The applicant's entire record of criminal convictions (except non-felony traffic offenses) and ordinance violations, and the dates and places thereof.
6. Acceptable written proof that the applicant is at least 18 years of age.
7. A certificate from a medical doctor stating that each proposed Massage Technician has, within 30 days immediately prior thereto, been examined and found to be free of any contagious or communicable disease. This requirement shall not apply to any State Certified Massage Professional. (Ord. No. 1587)
8. The name and address of any massage business or other like establishment owned or operated by any person whose name is required to be given pursuant to this Section.
9. A complete description of all services to be provided at the massage establishment and of any other business to be operated on the same or, when owned or controlled by the applicant, adjoining premises.
10. The name, address, date of birth and position of each person who is or will be employed in the massage establishment.
11. If the applicant is a corporation, its name exactly as shown in its Articles of Incorporation or Charter, its state and date of incorporation, and the names and residence addresses of each of its current officers, directors, and any stockholders holding more than 5% of the corporation's stock.
12. If the applicant is a partnership, the name and residence addresses of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its Certificate of Limited Partnership as filed with the county clerk. If one or more of the partners is a corporation, the provisions of subsection 11 pertaining to corporate applicants shall apply.
13. If the applicant is a corporation or partnership, it shall designate on the application one of its officers or general partners as its responsible managing officer. Such person shall complete and sign all forms and submit the application fee on behalf of the applicant. The responsible managing officer shall meet all requirements applicable to the applicant.
14. A site plan depicting how the proposed business will comply with the design standards of this chapter and the off-street parking requirements of the zoning ordinance and designating each room or enclosure proposed for massages.

E. The applicant, or, if the applicant is a partnership or corporation, its designated responsible managing officer shall personally submit the application with proof that the application fee has been paid.

F. The applicant shall notify and cause the Health Officer to inspect the proposed site to ensure compliance with all applicable health laws and issue a report. The applicant shall submit a copy of the report to the Police Department. If the applicant does not provide to the Police Department a report determining that the site is in full compliance within 60 days of the date of filing, the application shall be returned; a new application shall be required with the payment of all associated fees. In addition to any fees charged by the City, the applicant shall pay all fees charged by the County Health Department.

G. The applicant shall submit any change of address occurring during the procedure of applying for a massage establishment permit.

**§ 5.45.035 Massage Establishments: Application Review.**

A. The Police Chief shall have 60 days to perform all necessary investigation related to the application, unless the Department of Justice delays the process, in which case the Police Chief shall notify the applicant that additional time is needed to complete the process.

B. Upon the completion of the investigation, the Chief shall grant the permit upon making the following findings, provided however, that subparagraph 5 herein shall not apply to any Certified Massage Establishment operated as a sole proprietorship. (Ord. No. 1587)

1. The required fee has been paid;
2. The application conforms in all respects to the provisions of this Chapter;
3. The applicant has fully cooperated in the investigation;
4. The applicant has not made a material misrepresentation in the application; and,

5. The applicant has not:

(a) Within 5 years immediately preceding the date of filing the application, been convicted in a court of competent jurisdiction of, or entered a plea of guilty or nolo contendere to:

(1) Any misdemeanor or felony offense which relates directly to the operation of a massage establishment, whether as a massage establishment owner or operator, or as a massage technician;

(2) Any felony the commission of which occurred on the premises of a massage establishment.

(b) Within 5 years immediately preceding the date of the filing of the application, had any massage establishment, operator, technician, practitioner, or trainee license or permit revoked, denied or suspended.

(c) Within 5 years immediately preceding the date of the filing of the application, been convicted in a court of competent jurisdiction of, or entered a plea of guilty or nolo contendere to:

(1) Any violation of Penal Code §§ 266 (h), 266 (i), 314, 315, 316, 318, or 647 (a), (b), or (d), or any lesser included offense thereof or any other state law involving a crime of moral turpitude;

(2) Conspiracy or attempt to commit any such offense;

(3) Any offense in a jurisdiction outside the state of California which is the equivalent of any of the aforesaid offenses;

(4) Any felony offense involving the sale of a controlled substance specified in Health and Safety Code §§11054, 11055, 11056, 11057, or 11058;

(5) Been found guilty of or pleaded guilty or nolo contendere to any lesser-included offense of the above.

(d) Been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to Penal Code §§ 11225 through 11235 or any similar provisions of law in a jurisdiction outside the state of California.

(e) Been required to register under the provisions of Penal Code Section 290.

(f) Engaged in disqualifying conduct.

6. The massage establishment as proposed by the applicant would comply with all the applicable laws, including but not limited to health, zoning, fire, and safety requirements and standards.

7. The applicant is at least 18 years of age.

8. The applicant possesses the requisite background and qualifications to conduct a bona fide massage establishment.

9. The applicant has not violated the provisions of this Chapter, or any similar ordinance, law, rule or regulation of any other public agency, which regulates the operation of massage establishments.

10. The subject premises have been inspected by the Health Officer and found to be in compliance with all applicable health laws and regulations.

11. The applicant has obtained a conditional use permit pursuant to the zoning ordinance.

C. A permit issued pursuant to this Chapter shall be valid for the term of one year from the date of issuance.

D. The Police Chief shall deny the permit if the applicant does not fulfill the requirements of this Chapter. The applicant may appeal the denial as set forth in Section 5.45.105.

E. No massage establishment permit shall be issued to any person who has an Adult Entertainment Permit issued by the City or similar permit in another jurisdiction.

**§ 5.45.040      Massage Establishments: Permit Non-assignable.**

A. Subject to the exception below for partnerships, no massage establishment permit may be sold, transferred, or assigned by the permittee, or by operation of law, to any other person or persons; any such sale, transfer, or assignment, or attempted sale, transfer, or assignment, shall be deemed to be a voluntary surrender of the permit and it shall thereafter be invalid. If the permittee is a corporation, its massage establishment permit shall be invalid when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a permit, or any stock authorized but not issued at the time of the granting of a permit, is thereafter issued and sold, transferred, or assigned.

B. Notwithstanding subsection A, if one or more partners of a partnership which is a permittee dies during the life of the permit, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such permit; in such case, the permittee shall thereafter be deemed to be the surviving partner(s).

**§ 5.45.045      Massage Establishments: Operating Requirements.**

Each massage establishment permittee shall comply with the following requirements, provided however, that Certified Massage Establishments shall not be required to comply with subparagraphs H, T, and U. (Ord. No. 1587)

A. Each establishment offering massage shall have a valid City massage establishment permit.

B. Each person employed or acting as a massage technician shall either be a State Certified Massage Professional or have a valid City massage technician permit. It shall be unlawful for any owner, manager, operator, responsible managing officer or employee, or permittee in charge of or in control of a massage establishment, to employ or permit a person to act as a massage technician who either is not a State Certified Massage Professional or not in possession of a valid, unrevoked City massage technician permit. A massage establishment permit does not authorize any person to perform massages without either being a State Certified Massage Professional or having a valid City massage technician permit. (Ord. No. 1587)

C. A massage establishment shall not be open, and no massages shall be provided, during the period between 11:00 p.m. and 8:00 a.m. (Ord. No. 1560)

D. Each establishment shall post in a conspicuous public location on the premises the services, prices and minimum lengths of time. All letters and numbers shall be not less than 1 inch in height. No service shall be performed and no fee shall be charged or collected for services other than those posted. All arrangements for services to be performed shall be made in a room in the massage establishment that is not used for administration of massages; unless no other such room exists in the establishment. No person shall, after the commencement of any service for any customer, inform the customer that any additional service is available, or ask or inquire of the customer whether he or she desires any additional service to be performed. No person shall perform any service for any customer that was not ordered by the customer prior to the commencement of the service rendered.

E. The permittee shall display in an open and conspicuous place on the premises the massage establishment permit and a picture of each and every massage technician who administers massages in the establishment.

F. Each massage establishment shall keep a written record of the date and hour of each massage, the name and address of each customer, the name of the massage technician

administering the massage, and the type of massage authorized and administered. The records shall be maintained for a period of 2 years. Only those officials who are charged with enforcement of this Chapter shall inspect these records and no information shall be used for any purpose other than enforcement of this Chapter. No massage establishment permittee or employee shall utilize the records in any manner unrelated to enforcement of this Chapter.

G. Each massage establishment shall at all times be equipped with an adequate supply of clean, sanitary towels, coverings and linens. Clean towels, coverings and linens shall be stored in cabinets. Towels and linens shall not be used on more than 1 customer or client, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than 1 customer or client. Soiled linens and paper towels shall be deposited in separate, approved receptacles.

H. Each massage establishment shall maintain clearly identified separate massage room or rooms, separated dressing facilities and separate toilet facilities for male and female customers.

I. Massage technicians may massage 2 or more customers in a single room, provided that a technician is present in the room at all times with the customers to preclude sexual activity. (Ord. No. 1560)

J. Each massage establishment shall maintain adequate ventilation to an area outside any room or booth where massage is being performed.

K. Each massage establishment shall thoroughly clean and disinfect with a disinfectant approved by the Health Department wet heat rooms, dry heat rooms, steam rooms, vapor rooms, showers, bathrooms, cabinet rooms and pools, as often as needed and at least once each day the premises are open. Bathtubs shall be thoroughly cleaned with disinfectant approved by the Health Department after each use.

L. Each massage establishment shall maintain in good repair and in a clean and sanitary condition all the establishment's walls, ceilings, floors, and other physical facilities.

M. Instruments utilized in performing massage shall not be used on more than one customer unless they have been properly sterilized.

N. There shall be no full or partial nudity. Employees shall not reveal Specified Anatomical Areas, as defined in Chapter 5.15 of this Code, in the presence of any other person.

O. All employees shall at all times while on the premises be clean and shall wear clean, non-transparent outer garments covering the body from knee to neck.

P. The operator of the massage establishment shall provide individual lockers on the premises for each employee.

Q. No persons shall enter, be, or remain in any part of a massage establishment while in the possession of, consuming or using alcoholic beverages or controlled substances, except pursuant to a prescription for medication. The owner, operator, responsible managing employee, manager, or permittee shall not allow any person in violation of this subsection to enter or remain upon the premises.

R. No massage establishment may operate as a school of massage, or use the same facilities as that of a school of massage.

S. No massage establishment may place, publish or distribute, or so direct or permit, any advertising matter which either depicts any portion of the human body or includes text which would suggest to prospective customers that any service is available other than those services described in Section 5.45.005 A.

T. No massage shall be given in a massage establishment within any cubicle, room, booth, or other area, which is fitted with a door capable of being locked.

U. All exterior doors shall remain unlocked during business hours from the interior side.

V. A massage technician shall not massage any customer who is not wearing clothing that fully covers the customer's genitals. The massage technician shall not massage any female customer whose breasts are not covered by a sheet or other opaque clothing. The massage technician shall not massage any person's genital area. The massage technician shall not massage the breasts of any female.

W. No massage establishment may be open for business unless there is a least 1 State Certified Massage Professional or massage technician holding a current, valid permit on the premise at all times. (Ord. No. 1587)

X. No persons other than the person receiving a massage and the administering massage technician may be within the room where the massage takes place, except as provided in subsection I of this §5.45.045. (Ord. No. 1560)

Y. The permittee shall notify the Police Chief, in writing, of any change in information concerning the original application within 30 days of such change.

Z. The permittee shall notify the Police Chief, in writing, of the name and address of each person employed as a massage technician subsequent to the issuance of the permit within 5 business days of that person being employed.

AA. No person licensed to operate a massage establishment shall operate under any name or conduct business under any name or business designation not specified in the license.

**§ 5.45.050      Message Establishments: Facilities.**

A. The permittee shall provide:

1. Signs in full compliance with the City sign ordinance.
2. Minimum lighting in accordance with National Electric Code Article 220; and at least 1 artificial light of not less than 40 watts in each room or enclosure designated for massage.
3. Minimum ventilation in accordance with Uniform Building Code Section 1105.
4. Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage.
5. Hot and cold running water at all times.
6. Closed cabinets for storage of clean linens.

7. Adequate dressing, locker and toilet facilities for customers, including a dressing room containing a separate locker (capable of being locked) for each customer, and a minimum of 2 toilets and 2 wash basins, one for males and one for females, located in separate rooms, provided however, that Certified Massage Establishments shall not be required under this Chapter to provide more than 1 restroom. (Ord. No. 1560, Ord. No. 1587)

8. A minimum of 1 separate washbasin shall be provided in each massage establishment for the use of employees.

9. A minimum of 1 separate wash basin which provides soap or detergent, and hot and cold running water at all times shall be provided in each massage establishment for the use of employees. Such basin shall be located within, or as close as practicable to the area devoted to performing of massage services. Sanitary towels shall be provided at each basin.

10. A table designed and manufactured for medical or massage uses in each room or area designated for massage. No mattresses and bed are allowed.

11. Pads made of durable washable plastic or other waterproof material acceptable to the Health Officer to cover massage tables.

**§ 5.45.055 Massage Establishments: Inspection.**

A. The Police Chief and the Health Officer shall each have the right to periodically enter and inspect any massage establishment for the purpose of enforcing compliance with all applicable regulations, laws, and provisions of this Chapter.

B. Whenever either the Police Chief or the Health Officer finds that any provision of this Chapter has been violated, such officer shall issue notice of the violation to the permittee by means of an inspection report or other written notice. The notification shall:

1. Set forth the specific violation or violations found;
2. Establish a specific and reasonable period of time for the correction of the violation or violations. If the issuing officer determines that the violation or violations are minor in nature, or are not continuing violation(s), the officer may issue a warning to the permittee that any further violation of this Chapter may result in the revocation or suspension of the permit; and
3. State that failure to comply with any notice issued in accordance with the provisions of this Chapter may result in revocation or suspension of the permit.

**§ 5.45.060 Massage Establishments: Change of Location or Name; Expansion.**

A. No permittee may relocate a massage establishment to another location within the City without first obtaining: (1) a written determination by the Director of Development Services finding that the proposed location and facilities comply with the Municipal Code; and (2) written authorization from the Police Chief.

B. No permittee may operate under any name not specified in the permit without first securing from the Police Chief an amended permit reflecting the change.

C. No permittee may expand a massage establishment without first obtaining: (1) a written determination by the Director of Development Services finding that the expansion complies with the Zoning Code; and (2) written authorization from the Police Chief the proposed expansion complies with this Chapter.

**§ 5.45.065      Reserved.**

**§ 5.45.070      Reserved.**

**§ 5.45.075      Massage Technicians: Permit Required.**

It is unlawful for any person other than a State Certified Massage Professional practicing consistently with the qualifications of his or her certification to provide massage without first obtaining, and maintaining in full force and effect, a massage technician permit. A permit issued pursuant to this Chapter shall be valid for the term of 1 year from the date of issuance. (Ord. No. 1587)

**§ 5.45.080      Massage Technicians: Permit Application.**

A. An applicant for a massage establishment permit shall submit to the Police Chief an application and a non-refundable application fee in an amount established by City Council Resolution. The applicant shall include a copy of the fee receipt with the application.

B. The application fee shall be in addition to any other business license or tax, permit fee or any fee required by this Code; provided however, that the application fee shall be waived in the event the applicant has paid the fee required by Section 5.45.030 A.

C. The applicant shall not administer massages until the City has issued all necessary permits and licenses.

D. Each application for a massage technician permit shall include the following information:

1. All of the information set forth in subsections 1-7 of Section 5.45.030 D. If certain required information is not applicable, the applicant shall so indicate.

2. A diploma or certification of graduation, and certified copy of transcripts from a Recognized School of Massage. In the event that the applicant has completed at least 3 years of work experience as a massage technician, such applicant shall be required to have completed a resident course of study consisting of not less than 300 hours of instruction, notwithstanding the provisions of Section 5.45.005 F. In the event that the applicant has completed at least 15 years of work experience as a massage technician, such applicant shall be required to have completed a resident course of study consisting of not less than 200 hours of instruction, notwithstanding the provisions of Section 5.45.005 F. The City shall have the right to confirm that the applicant has actually attended class in and graduated from a recognized school of massage. If the school or institution is located outside of California, the applicant shall include: (i) a certified copy of transcripts of his or her record, including dates and courses, which shows the applicant completed the appropriate course of study; and (ii) a copy of the school or institution's approval by its State Board of Education.

3. The full name, address, and telephone number of the massage establishment where the applicant will work. If, subsequent to the original application, the applicant seeks work at a different massage establishment, the applicant shall submit a new application. In such event, the applicant shall pay a new application fee.

4. Such other information as the Police Chief may require in order to discover the truth of the matters herein required to be set forth in the application.



5. A statement signed by the applicant certifying under penalty of perjury that all of the information submitted in connection with the application is true and correct.

**§ 5.45.085 Massage Technicians: Application Review.**

A. The Police Chief may issue a temporary permit within 7 business days following receipt of a written application for a massage technician's permit, if, having made an initial investigation, the Police Chief concludes that the applicant has not been previously convicted of a crime involving moral turpitude. A temporary permit shall continue unless the Police Chief revokes the permit pursuant to the same criteria applicable to permanent permits, or until it automatically expires 60 days after issuance, whichever comes first.

B. The Police Chief shall have 60 days in which to investigate the application and background of the applicant, unless the Department of Justice delays the process, in which case the Police Chief shall notify the applicant that additional time is needed to complete the process.

C. Upon the completion of the investigation, the Police Chief shall grant the permit upon finding:

1. The required fee has been paid;
2. The application conforms in all respects to the provisions of this Chapter;
3. The applicant has satisfied the educational requirements of subsection D.2 of Section 5.45.080 and is at least 18 years of age;
4. The applicant has fully cooperated in the investigation;
5. The applicant has not made a material misrepresentation in the application; and
6. The applicant has not:

(a) Within 5 years immediately preceding the date of filing the application, been convicted in a court of competent jurisdiction of, or entered a plea of guilty or nolo contendere to:

(1) Any misdemeanor or felony offense which relates directly to the operation of a massage establishment, whether as a massage establishment owner or operator, or as a massage technician;

(2) Any felony the commission of which occurred on the premises of a massage establishment.

(b) Within 5 years immediately preceding the date of the filing of the application, had any massage establishment, operator, technician, practitioner, or trainee license or permit revoked, denied or suspended.

(c) Within 5 years immediately preceding the date of the filing of the application, been convicted in a court of competent jurisdiction of, or entered a plea of guilty or nolo contendere to:

(1) Any violation of Penal Code §§ 266 (h), 266 (i), 314, 315, 316, 318, or 647 (a), (b), or (d), or any lesser included offense thereof or any other state law involving a crime of moral turpitude;

(2) Conspiracy or attempt to commit any such offense;

(3) Any offense in a jurisdiction outside the state of California which is the equivalent of any of the aforesaid offenses;

(4) Any felony offense involving the sale of a controlled substance specified in Health and Safety Code §§11054, 11055, 11056, 11057, or 11058;

(5) Been found guilty of or pleaded guilty or nolo contendere to any lesser-included offense of the above.

(d) Been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to Penal Code §§ 11225 through 11235 or any similar provisions of law in a jurisdiction outside the state of California.

(e) Been required to register under the provisions of Penal Code Section 290.

(f) Engaged in disqualifying conduct.

D. A permit issued pursuant to this Chapter shall be valid for the term of one year from the date of issuance.

E. The Police Chief shall deny the permit if the applicant does not fulfill the requirements of this Chapter. The applicant may appeal the denial as set forth in Section 5.45.105.

#### **§ 5.45.090      Massage Technicians: Prohibited Conduct.**

A. A massage technician shall not massage any customer who is not wearing clothing that fully covers the customer's genitals. The massage technician shall not massage any female customer whose breasts are not covered by a sheet or opaque clothing. The massage technician shall not massage any person's genital area. The massage technician shall not massage the breasts of any female.

B. Massage technicians shall at all times on the premises of the massage establishment be clean and wear clean, non-transparent outer garments covering the body from knee to neck.

C. No massage technician may perform a massage in any location other than at a massage establishment holding a valid massage establishment permit.

D. No massage technician may perform a massage at any location other than that location specified on the massage technician's permit.

E. No massage technician shall engage in the following activity at a massage establishment:

1. Sexual activity.
2. Unlawful solicitation of sexual activity.
3. Transfer of controlled substances.

4. Conduct prohibited by this Chapter.

**§ 5.45.095      Massage Establishments and Technicians: Notice of Violations and Permit Suspension or Revocation.**

A. After an investigation and upon determining that grounds for revocation or suspension exist, the Police Chief shall furnish written notice of the proposed action to the permittee. The notice shall state the basis for the proposed action and that the permittee may request a hearing within 10 days of the date of the notice. The Police Chief shall post the notice at the location of the massage establishment and mail the notice by certified mail and regular mail, postage prepaid, addressed to the permittee as the name and address appear on the permit. The decision is final if applicant fails to request a hearing within 10 days of the date of the notice.

B. If a responsible managing officer of a massage establishment permittee violates the operational standards of this Chapter, the corporation or partnership shall propose a new responsible managing officer. The massage establishment permit shall be suspended until the City determines that the proposed designee meets all applicable Chapter requirements. If the City does not accept a proposed designee within 90 days of a violation, the permit shall be canceled.

C. After notice to the permittee and a hearing, if requested, the applicable permit may be revoked or suspended for a defined period of time by the Police Chief if he or she finds:

1. The permittee has violated any provision of this Chapter on two or more occasions within any 12-month period, and the permittee has been given prior notice of the earlier violation.

2. Any of the events in Sections 5.45.035 B 5, 5.45.085 C 6 and 5.45.090 have occurred.

3. The permittee has engaged in fraud, misrepresentation, or false statement in operating the massage establishment.

4. The massage establishment permittee has continued to operate the massage establishment after the massage establishment permit has been suspended.

5. The massage technician permittee has continued to administer massage after the massage technician permit has been suspended.

D. The Police Chief or his or her authorized representative shall conduct the hearing requested by the permittee. The permittee shall be permitted to present evidence, both written and oral, examine witnesses, if any, and present such argument to the Police Chief, as the permittee deems necessary. The permittee may be represented by counsel at the permittee's expense. The hearing shall be informal in procedures, and the rules of evidence shall not apply, except that hearsay evidence shall not be the sole basis for any decision to suspend or revoke the permit.

E. The decision and action of the Police Chief shall be communicated in writing to the permittee within 7 days of the date of the hearing, and shall be appealable to the City Manager in accordance with Section 5.45.105 of this Chapter.

F. Wherever a permit has been revoked under the terms of this Chapter, neither the former permittee, nor any affiliated person or entity, whether an individual, partnership, corporation, shall be granted a new permit for a period of 5 years from the date of the revocation.

**§ 5.45.100 Permit Renewal.**

Permittees shall submit an application for renewal to the Police Chief no sooner than 60 days and no later than 45 days prior to the expiration of the permit. A renewal application shall include a renewal application fee established by Council Resolution and the items required for an initial application, except as follows:

1. No additional fingerprints will be required if the applicant's fingerprints are already on file with the city.
2. No additional site plan will be required if the applicant declares that the establishment continues to operate in accordance with the site plan submitted in conjunction with the initial application.
3. No written proof of educational requirements will be required if the massage technician's proof is already on file with the city.

**§ 5.45.105 Appeal.**

A. Whenever an applicant or permittee is entitled to appeal a determination of the Police Chief, the appeal shall be filed in writing with the City Clerk not later than 15 days following the date of the notice of the determination. The appeal shall specify the basis for the appeal, the action requested, and the name and address of the permittee.

B. If a timely written appeal is filed, the City Manager shall set a hearing date and instruct the City Clerk to give such notice of hearing as may be required by law.

C. If no such appeal is timely filed, the decision of the Police Chief shall be final.

D. The City Manager shall act as the Hearing Officer or may appoint a qualified Hearing Officer, such as a retired municipal or superior court judge, or person of similar experience and qualifications, to hear and decide upon the appeal.

**§ 5.45.110 Procedure for Hearing on Appeal.**

A. The Hearing Officer shall conduct the hearing, receive oral testimony and other evidence, and prepare findings of fact. The Hearing Officer shall commence the hearing within 25 days of the filing of the appeal. Notice of time and place of the hearing shall be given to the appellant by personal service or via certified mail and regular mail, postage prepaid, at least 15 days in advance of the date set for the hearing. At the hearing, the permittee and the Police Chief shall be entitled to present relevant evidence, testify under oath, and call witnesses who shall testify under oath. The Hearing Officer shall not be bound by the statutory rules of evidence in the conduct of the hearing, except that hearsay evidence may not be the sole basis for the decision to revoke or suspend a permit.

B. Such appeal hearing shall be held de novo and the burden of proof shall be on the Police Chief to show by preponderance of the evidence that grounds for revocation or suspension under this Chapter exist.

C. Within 15 days of the conclusion of the hearing, the Hearing Officer shall determine, based upon the evidence presented in the record of the hearing, whether grounds for revocation or suspension exist. The Hearing Officer's decision shall be in writing and shall contain written findings of fact and his or her conclusions. The Hearing Officer's decision shall be served upon the appellant by personal service or via certified and regular mail, postage prepaid,

at the address of the permittee contained in the permit. The Hearing Officer's decision shall be effective upon personal service or, if service is by mail, then 2 business days following deposit with the United States Postal Service. The decision shall be final and conclusive and shall not be appealable to the City Council.

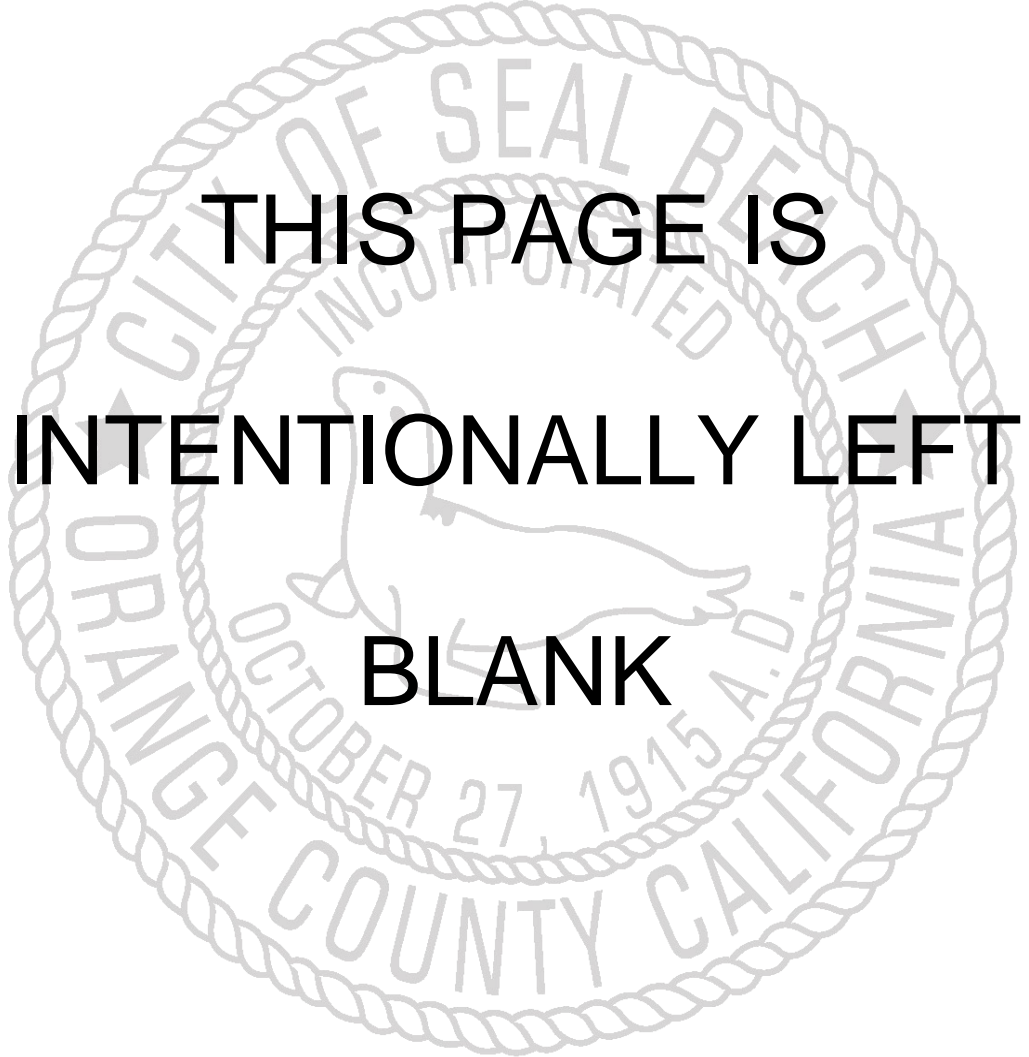
**§ 5.45.115      No Refund of Fee.**

No refund or rebate of any permit fee shall be allowed.

**§ 5.45.120      Return of Permit.**

In the event the permit is revoked, the permittee shall forward it to the City Clerk not later than the end of the 3rd business day after notification of the revocation.

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## **Chapter 5.50 Mobile X-Ray Units**

### **§ 5.50.005      Definition.**

Mobile X-ray Unit: X-ray generator that is or can be used for purposes of making medical diagnostic photofluorographic films of persons, and that is installed in or upon a motor vehicle or trailer so that it may be transported.

### **§ 5.50.010      Permit Requirement.**

No person shall operate a mobile x-ray unit without first obtaining, and maintaining in full force and effect, a mobile x-ray operator permit.

### **§ 5.50.015      Investigation.**

The county health officer shall investigate mobile x-ray operator permit applicants to determine the following information:

- A.      Whether the applicant has been certified by the California Department of Health Services.
- B.      Whether the applicant is in compliance with applicable laws.
- C.      The qualifications of the applicant and its personnel.
- D.      The location of film storage files.
- E.      The adequacy of applicant's equipment and proposed operation.
- F.      Such other information as deemed necessary.

### **§ 5.50.020      Approval or Denial of Permit.**

The county health official shall approve a mobile x-ray unit operator's permit upon finding that operation of the mobile-ray unit will not adversely affect the public health, safety or welfare; otherwise, the permit shall be denied.

### **§ 5.50.025      Permit Expiration.**

Each mobile x-ray operator permit shall expire at the end of each calendar year regardless of the date on which the permit was issued.

### **§ 5.50.030      Operation Standards.**

Mobile x-ray units shall be operated in accordance with the following standards:

- A.      No person under the age of 15 shall be x-rayed unless such person first presents a written prescription from a licensed physician.
- B.      No pregnant woman shall be x-rayed unless such person first presents a written prescription from a licensed physician.

C. Prior to being x-rayed, patients shall complete an information form showing the following:

1. Name, address and telephone number.
2. Physician's name and address.
3. Pregnancy status, if female.
4. Date and result of tuberculin skin test, if under age 15.

D. Patients shall be given a written report of the x-ray results within 30 days of the procedure.

E. On a monthly basis the county health officer shall be given a written report indicating the number of x-ray films taken during the preceding month.

F. X-ray films shall be retained at least 10 years.

G. X-ray films shall be made available to a patient's physician if the patient consents in writing.

H. The mobile x-ray unit shall contain conspicuously posted signs, in a format and location approved by the county health officer, containing the substance of the following statements:

1. Persons under the age of 15 are ineligible for an x-ray unless they have had a positive tuberculin skin test.

2. Pregnant women are ineligible for an x-ray without a doctor's prescription.

3. A chest x-ray film is a useful aid to the physician for diagnosis of chest disease. It is not a complete examination. See your family doctor for an examination at least once a year.

\* \* \* \* \*



## **Chapter 5. 55**

### **Oil and Gas Production**

#### **§ 5.55.005      Scope.**

Nothing in this chapter shall be deemed to conflict with state laws concerning drilling for oil on state-owned tide and submerged lands. Nor shall the provisions of this chapter apply to drilling and production of oil where wells are located and bottomed on state-owned tide and submerged lands.

#### **§ 5.55.010      Definitions.**

For the purpose of this chapter, the following words and phrases shall mean:

A.      Controlled Drill Site: A surface location in the city upon which surface operations incident to oil well drilling or deepening and the production of oil and gas and other hydrocarbon substances from beneath the surface of the real property, within or outside the city, is permitted under the terms and conditions of this chapter and an oil/gas production permit. Controlled drill site boundaries shall be set by city council resolution.

B.      Controlled Drill Site No. 1: The real property in the city described as follows:

Commencing at an 8-inch concrete monument which is the south quarter corner of Section 12, Township 5 South, Range 12 West, SBB&M, Orange County, California; thence North 89° 46 feet West, a distance of 387.25 feet; thence North 0° 14 feet East, a distance of 40 feet to a point in the North line of Bolsa Avenue, as described in Book 560 at page 166 of Official Records of Orange County, which last mentioned point is the true point of beginning; thence North 0° 14 feet East, a distance of 1,020 feet; thence 89° 46 feet West, a distance of 136 feet; thence South 31° 27 feet 34 inches West, a distance of 121.90 feet; thence South 0° 14 feet West, a distance of 915.76 feet to the North line of the aforesaid Bolsa Avenue; thence South 89° 46 feet East, distance of 200 feet to the point of beginning; said land lying entirely within the boundaries of the U.S. Naval Ammunition and Net Depot, Seal Beach, California.

C.      Developed Area: That subsurface area under real property in the city in or under which there are proven oil and gas reserves and on which and from which real property there is a currently producing well being operated by virtue of an oil and gas lease executed and delivered prior to January 20, 1969, in which subsurface area the drilling for and production of oil and gas is permitted as provided in this chapter. Such area shall contain not less than one acre.

D.      Directional Drilling: The whipstocking or slant drilling of an oil and gas well more than 5° off vertical.

E.      Drilling Equipment: All temporary structures, tanks, equipment and facilities necessary or convenient for the drilling of a well or well hole. "Drilling equipment" includes without limitation: wood or steel derricks; portable masts; engines; pumps; temporary fuel and water tanks; and other like facilities ordinarily used in connection with the drilling of an oil and gas well.

F.      Exploratory Area: A city council-designated area in which drilling and production for oil and gas is permitted pursuant to this chapter. Such area shall contain not less than 40 acres, the boundaries of which shall follow property lines, public streets, highways or alleys so far as practicable.

G. Mine: All mineral bearing properties of whatever kind or character, whether underground, quarry, pit, well, spring, or other source from which any mineral substance is or may be obtained.

H. Mineral: All mineral products, both metallic and non-metallic, solid, liquid, or gaseous, and mineral waters of whatever kind or character.

I. Oil Well: Any well or hole already drilled, being drilled, or to be drilled from the surface into the earth, which well or hole is used or intended to be used in connection with the drilling for, prospecting for, or production of oil, natural gas, or other hydrocarbon substances. "Oil well" shall also include a well or hole used for the subsurface injection into the earth of oil field waste, gases, water, or liquid substances, including any well or hole that has not been abandoned and is now in existence.

**§ 5.55.015 License Tax.**

A. In-City Production. Every person who engages in the business of producing crude oil, gas, petroleum, or other hydrocarbon substances from any well located in the city shall pay an annual license tax computed as follows:

1. \$150 per producing well ("the base tax"); plus
2. \$30 per producing well ("the annual oil permit well fee"); plus
3. 20.5¢ per barrel of oil produced and shipped from the well during each fiscal quarter of the fiscal year ("the per-barrel tax"). Such amount shall be adjusted annually on July 1st of each year in accordance with the change in the Producer Price Index during the previous fiscal year, but in no event shall the per barrel tax be adjusted to a rate below 12.5¢ per barrel of oil produced. Such adjustment shall be determined by the director of administrative services. For purposes of this section, "Producer Price Index" means the producer price index for crude petroleum (domestic production), as prepared by the Bureau of Labor Statistics of the United States Department of Labor, or if such agency shall cease to prepare such an index, then any comparable index covering the Los Angeles and Orange County areas prepared by any federal or state agency, which is approved by the city council.
4. The base tax and the annual oil permit well fee shall be paid by September 30th for each fiscal year. The base tax and the annual oil permit well fee shall be paid for each new well commencing production after such payment dates within 30 days after the commencement of production for such well.
5. The director of finance shall notify each person required to pay the per-barrel tax of the rate to be used for each fiscal year. Such payment shall be made during each quarter of every fiscal year in the manner provided herein, on or before each succeeding September 30th, December 31st, March 31st and June 30th, respectively. Production during the months of June, July and August shall constitute the measurement of the amount due on or before September 30th for the first quarter of a fiscal year; production during the months of September, October and November shall constitute the measurement of the amount due on or before December 31st; production during the months of December, January and February shall constitute the measurement of the amount due on or before March 31st; production during the months of March, April and May shall constitute the measurement of the amount due on or before June 30th.
6. For the purpose of determining the license tax in this paragraph A:

a. A well is located in the city if the surface location of the well, the surface of the well itself, or if any portion of the well head is located in the city, irrespective of the subsurface location of the well, the producing interval thereof, or where the hold of the well may be bottomed.

b. A barrel of oil shall consist of 42 gallons (United States) of crude petroleum or hydrocarbon substances corrected for temperature variations in accordance with methods generally approved in the petroleum industry. Petroleum or hydrocarbon substances means crude oil remaining after the removal therefrom of water or other impurities by preliminary processing in the vicinity of the well site preparatory to the shipment thereof.

c. If oil produced from multiple wells shall be commingled without the production of the respective wells being separately measured, each well whose production has been so commingled shall be considered as having produced an equal part of the total.

d. Each oil producer in the city shall keep accurate records of any producer prices of such producer for oil produced in the city.

7. The person subject to the payment of the tax shall, before the business tax for each quarter becomes delinquent, file with the city a written statement setting forth the number of wells in operation and the number of barrels of oil produced by such well during the pertinent 3 month period of production upon which the tax due is to be calculated, and such person shall pay at such time the amount of the business tax computed upon the measure of the tax reported in the statement. The written statement shall include a declaration substantially as follows:

*"I declare under penalty of making a false declaration that I am authorized to make this statement, and that to the best of my knowledge and belief it is a true, correct, and complete statement made in good faith for the period stated, in compliance with the provisions of the Seal Beach Municipal Code."*

Such statements shall not be conclusive against the city as to the information set forth therein, nor shall the filing of a statement preclude the city from collecting by appropriate action any additional tax that is determined to be due and payable.

B. Out-City Production. Every person conducting, managing, carrying on, or engaged in the business or activity of producing crude oil, gas, petroleum, or other hydrocarbon substances or products from any well or wells where such well, or any portion of such well passes through or is bottomed under any real property in the city and where portions of such well are located in one or more other jurisdictions and where such well head is not located in the city, shall pay the sum or sums in the manner and to the extent as hereinafter provided for a business license tax:

1. The sum or sums to be paid on a per fiscal year basis, payable quarterly.

2. For each fiscal year there shall be paid in the manner hereinafter provided, on or before September 30th, December 31st, March 31st, and June 30th, respectively, an amount equal to 01¢ per quarter for each barrel of oil produced by each well in excess of 300 barrels per quarter. Production during the months of June, July, and August shall constitute the measurement of the amount due on or before September 30th for the first quarter of the fiscal year; production during the months of September, October, and November shall constitute the measurement of the amount due on or before December 31st; production during the months of December, January, and February shall constitute the measurement of the amount due on or before March 31st; production during the months of March, April, and May shall constitute the measurement of the amount due on or before June 30th.

3. For the purpose of determining the per license tax in this paragraph B:

a. A barrel of oil shall consist of 42 gallons (United States) of crude petroleum or hydrocarbon substances corrected for temperature variations in accordance with methods generally approved in the petroleum industry. Petroleum or hydrocarbon substances mean crude oil remaining after the removal therefrom of water or other impurities by preliminary processing in the vicinity of the well site preparatory to the shipment thereof.

b. If oil produced from multiple wells shall be commingled without the production of the respective wells being separately measured, each well whose production has been so commingled shall be considered as having produced an equal part of the total.

C. Non-production. Every person conducting, managing, carrying on or engaged in the business or activity of oil well, injection well or water source well drilling or servicing operations by refining oil or petroleum products and producing the by-products, or marketing, selling, distributing at wholesale, oil or any petroleum products, or by-products, or maintaining tankage or warehouse storage facilities where oil is kept for the purpose of whole distribution thereof shall pay the sum of \$50.00 per year plus a sum equal to the total of the following respective amounts per year per employee, in excess of 2 for the average number of individuals employed by such person whose principal activities are within the city during the 12 months immediately preceding the 30 days next preceding the due date of the license:

For 3 to 100 employees, inclusive	\$1.00 per employee
For the next 400 employees, inclusive	\$ .50 per employee
For all employees over 500	\$ .25 per employee

A license issued pursuant to this paragraph C shall include and permit the marketing, selling and distributing, at wholesale, of automobile tires, batteries, and accessories. The payment of a license as hereinabove provided in this subsection shall permit the engaging in any of the businesses or activities licensed without payment of an additional license tax; provided, however, that nothing in this paragraph C shall be deemed to apply or relate to actual oil production operations or to the operation of automobile filling stations.

#### **§ 5.55.020      Quarterly Statement.**

The person subject to the payment of the business license tax shall, before the business tax for each quarter becomes delinquent, file with the city a written statement setting forth the number of wells in operation and the number of barrels of oil produced by each well during the pertinent 3 month period of production upon which the tax due is to be calculated. Such person shall pay at such time the amount of the business tax computed upon the measure of the tax reported in the statement. The written statement shall include a declaration substantially as follows:

*"I declare under penalty of making a false declaration that I am authorized to make this statement, and that to the best of my knowledge and belief it is a true, correct, and complete statement made in good faith for the period stated, in compliance with the provisions of the Seal Beach Municipal Code."*

Such statements shall not be conclusive against the city as to the information set forth therein, nor shall the filing of a statement preclude the city from collecting by appropriate action any additional tax that is later determined to be due and payable.

**§ 5.55.025      Records.**

Every person required to have a license under this chapter shall keep accurate records as to the amount of oil produced and shipped or sold from wells located within the city and any other records required to be maintained by this chapter. All such records shall be kept for a minimum period of 3 years, and shall be made available for inspection at all reasonable times upon demand of the city manager, together with any shipping documents or sales invoices pertaining to such oil.

**§ 5.55.030      Delinquency.**

If any fee herein required to be paid to the city is not paid at the time and in the manner provided, the same shall, 30 days thereafter, automatically be and become delinquent, and a penalty in an amount equal to 25% of such fee shall be added thereto for such delinquency, which penalty shall be and become a part of such fee and shall be enforced and collected as a part of such fee.

**§ 5.55.035      Minerals.**

A.        Except as provided in paragraph B below, no person shall open or operate any mine in the city, remove any minerals from any property in the city, or enter the subsurface of the city from any point for the purpose of removing any minerals from any property in the city.

B.        A person who complies with the requirements of this chapter may remove oil, gas and other hydrocarbon substances from property within the city.

**§ 5.55.040      Existing Wells.**

The right to maintain and operate oil and gas wells lawfully drilled in or into the surface or the subsurface of the city prior to January 20, 1969, which wells are still being drilled or are producing oil or gas or other hydrocarbon substances as of January 20, 1969, shall not be prohibited; provided, however, any such wells shall be maintained and operated in accordance with law and in full compliance with the terms and conditions of the permits pursuant to which they were drilled. Any such well shall hereafter be referred to as an "existing well." No existing well shall be drilled, re-drilled, or deepened below its present bottom without first complying with all the terms, conditions, and provisions of this chapter including without limitation the payment of fees, the securing of an oil/gas production permit and the approval of the exploratory area.

**§ 5.55.045      Prohibited Conduct.**

A.        No person shall drill for or produce oil, gas, or other hydrocarbon substances from any surface location within the city, whether the subsurface operation from such well is within or outside the city, except as permitted by this chapter and this code.

B.        No person shall drill or produce oil or gas or other hydrocarbon substances from the subsurface of the city from drill sites located either within or outside the city except as permitted by this chapter.

C.        No person shall drill or re-drill or deepen below its present bottom any well for the production of or exploration for oil or gas or other hydrocarbon substances where any portion of the surface operation or the subsurface operation of such well is located within the city except as is authorized by this chapter.

**§ 5.55.050      Nuisance Declaration.**

A.      The city council hereby finds and determines that it is unlawful and a public nuisance for any person hereafter to erect any derrick or drilling equipment and hereafter to drill an oil and gas or oil or gas well from surface drill sites or locations within the city except in the manner provided in this chapter and this code.

B.      The city council hereby finds and determines that it is unlawful and a public nuisance for any person hereafter to drill or produce an oil and gas well or oil or gas well by directional or slant drilling methods from surface locations or sites outside the city such that the wells pass through or bottom in the subsurface of any property located within the city except in the manner provided in this chapter.

C.      The city council hereby finds and determines that it is unlawful and a public nuisance for any person hereafter to erect any derrick or drilling equipment and hereafter to drill an oil and gas or oil or gas well or to produce oil and gas or oil or gas by directional or slant drilling methods from surface locations or drill sites outside the city except in the manner authorized by this chapter and this code.

D.      The city council hereby finds and determines that is unlawful and a public nuisance for any well to be drilled or produced, and for any building or structure to be erected, operated, or maintained, and for property to be used, contrary to the provisions of this chapter or this code.

**§ 5.55.055      Drilling Regulations.**

A.      Subject to the approval of the exploratory area and the issuance of an oil/gas production permit, the drilling of an oil and gas or oil or gas well and the production of oil, gas, and other hydrocarbon substances may be carried on from drill sites located outside the city limits where such oil and gas wells are drilled into the subsurface of real property in the city by directional or slant drilling in accordance with the requirements of this chapter.

B.      Subject to the approval of the exploratory area and the issuance of an oil/gas production permit, the drilling of an oil and gas or oil or gas well and the production of oil, gas, and other hydrocarbon substances may be carried on from a controlled drill site. No drilling or production operations for oil and gas may be had on any other sites or surface real property within the city.

C.      The use of a controlled drill site need not be exclusive to any single person, firm, or operator and may be used jointly by such applicant or permittee as may be granted an oil/gas production permit.

**§ 5.55.060      Preliminary Exploratory Area.**

A.      No oil/gas production permit shall be considered by the city council until the city council has approved the boundaries of a preliminary exploratory area. An application for approval of the boundaries of a proposed preliminary exploratory area shall be required, and in such application the applicant shall set forth and describe the real property in the city that the applicant proposes to explore for oil and gas purposes. A map shall also be attached to the application, which map shall clearly show and outline the proposed preliminary exploratory area. The preliminary exploratory area may include property within and property outside the city.

B.      Each application for approval of the boundaries of a preliminary exploratory area shall be accompanied by an application for a permit to drill a well for exploratory purposes and an application fee in an amount set by city council resolution. The application fee shall entitle

applicant upon approval of the boundaries of a preliminary exploratory area to drill one exploratory well. Such exploratory well shall not be permitted by applicant to be placed into production except for testing purposes until applicant has applied for and received approval by the city council of the boundaries of the final exploratory area.

C. Each applicant requesting approval of a preliminary exploratory area shall have the contractual or proprietary right and authority to drill for oil and gas under the surface of at least 75% of the area of the real property in the city described and included in any preliminary exploratory area.

#### **§ 5.55.065 Final Exploratory Area.**

A. No oil/gas production permit shall be considered by the city council until the city council has approved the boundaries of the final exploratory area, hereinafter called exploratory area. An application for approval of the boundaries of the proposed exploratory area shall be required and in such application the applicant shall set forth and describe the real property in and outside the city that the applicant proposes to explore further for oil and gas purposes. A map shall also be attached to the application, which map shall clearly show and outline the exploratory area. Such exploratory area shall not contain less than 40 acres. Each such application shall have attached thereto geological information and the opinion of a geologist or petroleum engineer indicating the anticipated geological structure included within the proposed exploratory area.

B. Any person who has received approval of a preliminary exploratory area and a permit for an exploratory well shall apply for approval of a final exploratory area if the well is capable of producing an average of 5 or more barrels of oil or gas in commercial quantities or oil and gas in commercial quantities after a maximum of a 90 day test period. No further or additional exploratory wells shall be drilled until an application for an exploratory area has been filed with and approved by the city council.

C. Each application for approval of the boundaries of an exploratory area shall be accompanied by an application fee in an amount set by city council resolution. The application fee shall be used to defray the costs to the city of study, investigation, and hearing concerning the proposed exploratory area set forth in the application.

D. Each applicant requesting approval of an exploratory area shall have the contractual or proprietary right and authority to drill for oil and gas under the surface of at least 75% of the area of the real property in the city described and included in any exploratory area.

E. The city council, in consultation with the applicant, shall determine the nature and probable extent of the exploratory area. Having determined the probable extent of the exploratory area, the city council shall delineate and describe the approved exploratory area.

F. The city council, as a condition to granting its approval, may require each applicant or permittee to pool all real property that it controls within the approved exploratory area. The permittee shall immediately form one or more pools within the approved exploratory area, provided, however, that there shall not be more than 3 pools in an approved exploratory area. After such pool is created, the property included therein shall thereafter be referred to as the "pooled area." The applicant shall not be required to obtain leases or contractual rights to explore all of the real property within such exploratory area, but the applicant shall agree, in writing, that the owners of any oil and gas rights within the exploratory area may join in any leasing arrangements covering the pooled area containing their property for the production of oil and gas from the area. The owners of oil and gas rights within the exploratory area shall have the right to join in any such lease and to share in the rental or royalty payments for oil and gas produced from the approved exploratory area or pooled area. The shares of royalty to be paid shall be computed on the same basis as that of the average of real property owners, by surface

area, who have by lease or other document agreed to the drilling for and production of oil and gas by the applicant from the subsurface of the exploratory area.

The owner of any oil and gas rights within the exploratory area shall be granted the right to join in any such pooled area on the basis set forth in this section. The permittee or lessee shall accept the owner of such rights into the pooled area as provided in this section upon receiving written notice that such owner will join in and become a part of such pooled area covering the exploratory area and upon the execution of the same form of lease executed by other owners; provided, however, the oil and gas rights are appurtenant to real property included in the exploratory area. The owner of oil and gas rights within the exploratory area may join such pooled area and be included in the right to receive a pro rata share of oil and gas royalty the same as if the owner had joined such lease by giving notice to the permittee at any time after the exploratory area is approved; provided, however, such owner waives any right to oil and gas royalties, rentals, or proceeds on or for any and all production from the exploratory area up to the first day of the following month after the time such notice is given to the permittee within 5 years of the effective date of the first oil/gas production permit issued in the exploratory area. The permittee shall be required to impound the oil and gas royalty for all property within the exploratory area (in which the permittee does not have a contractual or proprietary right to drill for oil and gas beneath the surface) for a period of 5 years from and after the effective date of such first oil/gas production permit and to, during such 5 year period, pay such royalty, as they are entitled, to the owners of oil and gas rights who give written notice and execute the same form of lease or agreement executed by other owners. Upon the expiration of 5 years from the effective date of the first oil/gas production permit, the permittee shall distribute the remainder of the funds impounded to the owners of oil and gas rights who have executed the lease in the same manner as shares of royalty are apportioned. No such owner of oil and gas rights shall be entitled to an oil/gas production permit or the right to drill an oil and gas well due to failure to join any pooled area or non-participation in oil and gas royalty from real property located within the exploratory area.

The pooling or unitizing of oil and gas rights within the exploratory area as between owners, lessees, or others having rights therein may be made a condition to the approval of the exploratory area.

The city council may modify the restriction and conditions required by this chapter and impose such other conditions as it may deem necessary to carry out the purpose and intention of these sections and to fairly and equitably protect the oil and gas rights of the owners in any exploratory area.

G. In its action upon the application, if the city council shall find that the boundaries of the proposed exploratory area include all of the subsurface portion of real property in which there is likely to be found deposits of oil and gas from a probably single pool, it shall approve the boundaries of the proposed exploratory area, or, if such boundaries can be modified to justify such a finding, it shall approve the boundaries of the exploratory area as modified.

#### **§ 5.55.070 Production in Developed Areas.**

Notwithstanding the provisions of this chapter requiring that the exploratory or producing area contain not less than 40 acres, the holder of a valid oil/gas production permit may drill and produce an oil and gas well where such well is bottomed and produced from a developed area.

#### **§ 5.55.075 Permit Requirement.**

It shall be unlawful and a nuisance for any person hereafter to conduct any drilling operations for a well hole or hereafter to drill and produce any oil and gas well or well hole in the surface or



subsurface of the city from any drill site without first having applied for and obtained from the city council an oil/gas production permit.

**§ 5.55.080 Permit Application.**

A. Each oil/gas production permit application shall be made in writing and shall include:

1. The legal description of the proposed drill site.
2. A description of all properties, both within and outside the city, through which such well is proposed to pass.
3. A statement that the applicant has the right, by reason of ownership or the permission of the owner, to pass through and enter all property through which such well is proposed to pass.
4. The proposed location, the type, kind, size, and amount of equipment, and the method of operation of the proposed well, or an approved well plan.
5. The proposed method of handling and using any product proposed to be developed.
6. In all cases where the well is proposed to be bottomed in the city, a statement that the applicant has the contractual or proprietary right and authority to drill for oil and gas under the surface of at least 75% of the real property described and included in the approved exploratory area or a statement bringing the application within the requirements for production in developed areas.
7. In all cases where the well is proposed to be drilled from a controlled drill site within the city, a statement that the applicant has complied or will comply, before spudding in the well, with all requirements of the city (or in the case of unincorporated territory, the county) in which the well is to be bottomed.
8. A detailed written report of a geologist or other person experienced in the field of subsidence as a result of petroleum extraction. The report shall indicate the nature and extent of the subsidence, if any, that can reasonably be expected to occur as a result of the proposed drilling and production or drilling or production, as the case may be. The report also shall indicate the nature and extent of the damage to property, if any, that could reasonably be expected to occur as a result of the drilling and production or drilling or production, as the case may be.

B. The filing of an oil/gas production permit application shall be accompanied by an application fee in an amount set by city council resolution. The application fee shall be used to defray the costs to the city of study and investigation by the city manager, other staff members, consultants, and the city council concerning the proposal set forth in the application. No fee for an application for an exploratory well shall be required.

**§ 5.55.085 Approval or Denial of Permit.**

A. Upon receipt of an oil/gas production permit application the city council shall refer such application to the city manager for study and investigation. The application shall be considered by the city council within one month after the city has complied with the California Environmental Quality Act.

B. In its action upon the application, if the city council finds that the terms and conditions of this chapter have been complied with and that the persons and property within the city will not be adversely affected by the granting of the application, and that there is no reasonable probability of danger or damage to any real or personal property or injury to any person within the city by reason of subsidence of the surface of the earth or other reason due to the extraction of oil or gas or oil and gas, and if, in a case where the proposed drill site is located within the city, the city council shall find that there is no reasonable probability of danger or damage to any real or personal property or injury to any person by reason of the production and extraction of oil or gas or oil and gas or other hydrocarbon substances, it shall grant the permit upon such terms and conditions as deemed appropriate to protect persons and property within the city from injury or damage or hazard of injury or damage, and when the drill site is in the city, such further conditions as deemed appropriate to eliminate or minimize the adverse effect of such drill site on persons and property in the vicinity. In all other cases, the city council shall deny the application.

C. When the city council has approved an oil/gas production permit, the permit shall not be effective until it is issued by the city manager. The city manager shall issue an oil/gas production permit approved by the city council upon receipt of written acceptance of the permit by the permittee and payment to the city of a permit fee in an amount set by city council resolution. Such permit fee shall be in addition to the application fee.

#### **§ 5.55.090      Operation Standards.**

Drilling shall be conducted in accordance with the following operation standards:

A. Drilling operations for any well shall commence within 90 days from the effective date of the permit and thereafter be prosecuted diligently to completion. If a producing well is not secured within one year from the effective date of the permit, the well shall be abandoned. The city council, for good cause, may allow additional time for the commencement of the well.

B. The permittee shall comply with all ordinances, rules, and regulations of the city and of any other city through which the well or any part thereof is located or to be drilled, and the permittee shall comply with all ordinances of the county when the well or any part thereof is located or is to be drilled partly within the unincorporated territory of the county. The permittee shall comply with all rules and regulations of the South Coast Air Quality Management District.

C. A copy of the complete record of any such well-furnished to the Division of Oil and Gas of the state shall be filed by the permittee with the city manager upon request. The permittee shall, within 30 days after any oil and gas or oil or gas well is placed on production, file with the city manager a plat showing the location of the producing interval and the drill site. All records submitted pursuant to the provisions of this subsection shall be confidential and privileged.

D. All well holes and oil and gas wells passing through or bottomed in or under any real property in the city, which wells are drilled from drilling sites outside the city, shall be below a depth of 200 feet upon entering any real property within the city.

E. All well holes, oil and gas wells, oil wells, and gas wells bottomed in the city shall be bottomed in a preliminary exploratory area, an exploratory area or a developed area.

F. City representatives shall be permitted at all reasonable times to review and inspect the drill site and any operations or methods used in the drilling for and production of oil and gas.

G. The permittee shall hold the city and its officers and employees harmless from any claims by third parties arising out of or resulting from the permittee's operation under any oil/gas production permit. The permittee upon request and after commercial production is established shall be insured for not less than \$2,000,000 against liability in tort arising from the drilling or production activities or operations incident to the drilling and production of an oil and gas well. A certificate of such insurance shall be filed with the city clerk before drilling is commenced. As an alternative to the afore required liability insurance, the city council may approve a satisfactory bond in a minimum amount of \$2,000,000 or the city council may approve a plan of self-insurance by the permittee. Drilling and production shall be suspended at any time when the required insurance, bond, or self-insurance plan is not in full force and effect.

H. The oil/gas production permit shall become null and void unless the permit is accepted by the applicant in its entirety in writing, filed with the city manager within 30 days from the effective date thereof, together with the payment of the permit fee and no work on such drill site shall be commenced until such permit is accepted and issued.

I. The operation of any oil and gas well and production therefrom drilled pursuant to an oil/gas production permit shall be in accordance with the rules and regulations of the Division of Oil and Gas of the state, or any successor agency or body thereto.

J. The oil and gas or oil or gas well drilled shall be drilled only within properties which the permittee set forth in its application as the properties through which such well was proposed to pass unless the permittee secures approval of the city council to cause such well to pass through other properties.

#### **§ 5.55.095 Additional Standards.**

No oil/gas production permit shall be issued where all or any part of the proposed drill site is located within the city without the following additional standards being required and made a part and condition of such permit; provided, however, that the city council may in the event the proposed drill site is more than 1,000 feet from any current or proposed residential or commercial area, waive any or all of such following standards upon a finding that the standards would impose a hardship on the permittee and would not serve to protect the citizens of the city. The city council may require the following additional standards to be made a condition of any permit for wells drilled from a site outside the city, if such drill site is within 1,000 feet of any developed residential or commercial area.

A. All drilling shall be done by means of a steel derrick enclosed with fire proofed and soundproofed material, and operations shall be carried on diligently from the commencement of the drilling until the completion of the well or until such well is abandoned.

B. All drilling and production equipment shall be operated by either electric or muffled internal combustion engines. All engines shall be equipped with Maxim Silencers or such other types of mufflers as may be satisfactory to the city council.

C. No sump holes shall be permitted, and rotary mud, drill cuttings, and other waste material from drilling operations shall be discharged into a steel tank. Such tank, drill cuttings, rotary mud, and waste material shall be removed from the controlled drill site upon completion of drilling operations.

D. During all drilling or production operations, except in the case of emergency, all equipment or supplies to be delivered to the drill site shall be transported, trucked, or conveyed to the drill site and unloaded only on Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m. As soon as commercial production has been established in any new well, acquisition of a right-of-way or the construction of a pipeline shall be started within 10 days and work thereon

diligently prosecuted until such pipeline is completed in order to eliminate the trucking of oil. Except in cases of emergency, all oil and gas shall be shipped and transported through pipelines when completed. All pipelines outside of such drill site shall be laid to a depth of at least 3 feet below the surface of the ground.

E. Private roads for ingress and egress to and from the drill site shall be surfaced with gravel and maintained in good condition at all times during drilling and production operations. No signs shall be erected on the drill site except those required by law or permitted by this code.

F. Within 90 days after the completion of drilling operations or abandonment of further drilling, the derrick and all drilling equipment, including temporary tanks, shall be removed from the drill site. Well abandonment shall be in accordance with the requirements of the Division of Oil and Gas of the state. Upon such well abandonment, the permittee shall restore the property as nearly as possible to its original condition and shall remove all concrete foundations, oil-soaked soil, and debris; all holes or depressions shall be filled to the natural surface.

G. The applicant or permittee shall designate a competent representative who shall be responsible for the supervision of drilling operations and the carrying out of conditions of any permit. Such representative shall be available at all times during drilling operations and shall be the responsible contact agent of the applicant or the permittee whom the city council may require to carry out the provisions of the permit.

H. Within 30 days after commercial production has been established, there shall be commenced and prosecuted diligently to completion on each controlled drill site adequate landscaping and screening, either with shrubbery, masonry, or concrete wall or their equal, so that the same shall not be unsightly nor hazardous. All tanks shall be depressed so that the top of any tank and other equipment and appurtenances shall not extend more than 5 feet above the surface of any controlled drill site unless otherwise permitted by the city council.

I. Oil produced from such wells may be stored in steel tanks on the site. Unless otherwise permitted by the city council, the total amount of storage for production, recycling, and all storage and operational purposes shall not exceed 2,000 barrels, and no tank shall exceed 1,000 barrel capacity.

J. All drilling and production equipment installed or operated upon any controlled drill site shall be so constructed, operated, and maintained that no noise, vibration, odor, or other harmful or annoying substances or effects therefrom which can be eliminated or diminished by the use of modern and approved types of equipment silencers or greater care shall ever be permitted to result from operations on any controlled drill site to the injury or annoyance of persons in the vicinity of such controlled drill site. Proven technological and mechanical improvements in methods of drilling and production and in the type of equipment used therefore shall be adopted from time to time, as the same become available if the use of such equipment, improvements, and methods will reduce noise, vibration, odors, or the harmful effects of annoying substances. The use of equipment in any controlled drill site, which equipment causes noise or vibration, shall at all times be subject to the approval of the city council, and the city council may amend any permit and require the permittee to abate any noise or vibration which constitutes a nuisance and is detrimental to persons or property in the vicinity where such equipment is being operated.

K. All of the operations at the drill site shall be conducted in a careful and orderly manner, and the premises shall at all times be maintained in a neat, clean, and orderly manner.

L. All fire-fighting equipment as required and approved by the fire chief shall be installed and maintained on the controlled drill site at all times during the drilling and production operations.

M. No earthen sump shall be used or maintained on any controlled drill site, and all waste water, mud, oil, or other waste products from drilling and producing operations shall be accumulated in steel tanks, and such tanks shall not be permitted to overflow at any time.

N. The city council may restrict the use of certain streets, alleys, or roadways in connection with the permittee's operations, which streets, alleys, or roadways shall be named in any permit granted. In the event any street, alley, or roadway is damaged by the permittee's operations, such damage shall be paid for by the permittee upon demand by the city, and the failure to pay such damage, being the reasonable cost of the repair of any such damaged portions, shall be grounds for the revocation of the permit and the collection of such damage at law by the city.

O. No permanent derrick shall be installed or maintained on any controlled drill site or used for the drilling or production of any oil or gas well.

P. After an oil and gas well is placed on production, all equipment with moving parts in use at such well shall be securely enclosed in a building or by an adequate type of fence or approved wire screen or housing, sufficient to prevent the entry of unauthorized persons to such moving parts. Such protections shall be subject to the approval of the chief building inspector. Any gates thereto shall be securely fastened at all times except when authorized personnel are in attendance at such well.

#### **§ 5.55.100 Permit Suspension or Revocation.**

An oil/gas production permit may be suspended or revoked by the city council for any material violation of the conditions of the permit by the permittee or for persistent violation of any law by the permittee in the operation of any such well. The city council shall not revoke a permit without first giving the permittee 10 days' written notice of the nature of the violations and the city council's intention to revoke such permit. If, within such period, the permittee requests a hearing, the city council shall grant such hearing within 15 days after the date of the request. At such hearing, evidence shall be presented to establish to the satisfaction of the city council the extent and nature of the violation that constitutes grounds for the revocation, and the permittee shall be given an opportunity to cross-examine all witnesses testifying at such hearing. The permittee shall thereafter be permitted at that hearing, or at a continued hearing (if a continuance is requested by the permittee) to present evidence to disprove or explain such alleged violations. The city council shall thereupon, after hearing all the evidence, determine whether or not the permit should be revoked, and the city council determination thereon shall be final. If the city council determines that the permit should be revoked, it shall order the revocation, and the permittee shall thereafter abandon the well in strict conformity with the requirements of law.

#### **§ 5.55.105 Subsidence.**

A. The city engineer shall, from time to time make such tests and observations as deemed appropriate to determine if any adverse effect upon the surface of the city is occasioned or is in danger of being occasioned by reason of the removal of oil, gas, or other hydrocarbon substances from the subsurface of the city pursuant to a well, no part of which is located within the city, but which drains a subterranean oil or gas pool, part of which is in the city. Upon determining the existence of such adverse effect or danger, the city engineer may order the immediate suspension of further production from such well or wells as may be located entirely or partly within the city, and, in the event of such an order, production on such well shall be suspended by the permittee or other operator immediately upon receiving notice of such order. The permittee or other person lawfully producing oil or gas, or oil and gas, or any other hydrocarbon substances from any such well may appeal to the city council. The city council may, upon good cause being shown by the permittee or such other person, vacate or modify the order

of the city engineer, or if no part of the well is in the city, the city council may direct the city attorney to immediately commence such actions or proceedings as may be necessary for the abatement, removal, and enjoining of further drilling operations which adversely affect property within the city in the manner provided by law and to take such other action and to apply to any court having jurisdiction to grant such relief as will restrain or enjoin any person from drilling or producing any such well.

B. Notwithstanding any other provision of this chapter, the city council may require an applicant for a final exploratory area or oil/gas production permit to submit a plan for water injection or other plan for secondary recovery and to eliminate any possibility of subsidence or other possible damage to property within the city.

#### **§ 5.55.110 Oil Drilling.**

It is hereby declared to be unlawful and a nuisance for any person, whether as principal, agent, servant, employee or otherwise, to drill any well for oil, gas or other hydrocarbon substances upon those portions of the territorial limits and boundaries of the city lying landward from the Pacific Ocean or to produce oil or gas or other hydrocarbon substances from any well so located, or to erect construct or install, or cause to be erected, constructed or installed, or to work upon or assist in any way in the erection, construction or installation of any derrick, machinery or other apparatus or equipment designed or intended to be used for the purpose of drilling or producing any such well-located landward from the Pacific Ocean, except that the provision hereof shall not apply to the land and territory lying within the area commonly known as the United States Naval Ammunition and Net Depot, and further, the foregoing shall not apply to any territory which may be annexed to the city from and after January 1, 1956. [Enacted by Ordinance No. 483 by initiative.]

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## **Chapter 5.60**

### **Public and Club Dances**

#### **§ 5.60.005 Definitions.**

For the purpose of this chapter, the following words and phrases shall mean:

A. Club Dance: dance, other than a public dance or dance given in a private residence, conducted by any club or association of persons for its members or bona fide guests more often than once in any 4 month period, attended by more than 200 persons, at which an admission fee is charged, a donation is solicited or dues are paid therefore.

B. Dancing Academy: regularly established place maintained or conducted for the purpose of giving instructions in dancing, where the operator contracts specially with each person for a specified number of lessons.

C. Non-profit Club or Organization: association of persons operated solely for charitable purposes. "Non-profit club or organization" includes the student body of a school.

D. Public Dance: dance, other than a club dance, dance given in a private residence or the normal activities of a dancing academy, attended by more than 200 persons, at which an admission fee is charged or a donation is solicited, or any gathering of persons upon any premises where dancing takes place.

#### **§ 5.60.010 Exemptions.**

This chapter shall not apply to the following:

A. Dances conducted by a non-profit club or organization on property owned by a public entity with the co-sponsorship of such public entity.

B. Dances conducted at private residences.

#### **§ 5.60.015 Permit Requirement.**

No person shall conduct a club dance or public dance without first obtaining, and maintaining in full force and effect, a dance permit.

#### **§ 5.60.020 Permit Application.**

A. Dance permit applications shall be submitted on forms prescribed by the city manager and shall be accompanied by an investigation fee.

B. No application may be filed for any premises for which an application has been denied for reasons pertaining to the premises unless one year has elapsed from the date of the denial. Notwithstanding the preceding, the city manager may accept the filing of an application for any premises that was originally denied if the conditions that caused such denial no longer exist.

#### **§ 5.60.025 Approval or Denial of Permit.**

The city manager shall cause such investigation to be made as deemed necessary and shall thereafter approve the issuance of the dance permit unless a finding is made that the conducting

of the proposed public or club dance will violate a law or be contrary to the public health, safety or welfare.

**§ 5.60.030 Public and Club Dance Fees.**

An applicant shall pay to the city an investigation fee and a permit fee set by city council resolution. The city council may reduce or waive the fees at its sole discretion.

**§ 5.60.035 Non-transferability.**

No dance permit issued under the provisions of this chapter shall be transferable.

**§ 5.60.040 Disciplinary Action.**

A dance permit may be suspended or revoked by the city manager if the activity authorized by such permit is conducted, maintained or carried on in violation of this chapter or any law or is contrary to the public health, safety or welfare. The city manager shall conduct a hearing prior to revoking or suspending a permit. Written notice of the time and place of such hearing shall be served upon the permittee at least 3 days prior to the date set for that hearing. Such notice shall also contain a statement of the grounds to be relied upon for revoking or suspending such license.

**§ 5.60.045 Inspections.**

City representatives shall be admitted immediately without charge at all reasonable times for the purpose of inspecting the premises and the conduct of all persons present at premises used in connection with a dance permit.

**§ 5.60.050 Age Restrictions.**

The permittee shall not permit persons under 18 years of age to be admitted or remain at any public or club dance unless accompanied by a parent, guardian, person having legal custody of such minor except when such dance shall be advertised and publicized as one conducted exclusively for minors between 14 and 18 years of age, in which event only persons of such specified age group shall be admitted as participants.

**§ 5.60.055 Re-entry Prohibited.**

The permittee shall not issue or permit the use of any form of pass-out checks, stamps or other devices by which any person in attendance may be enabled or permitted to leave or depart from such dance and later return.

**§ 5.60.060 Lighting, Food and Drink.**

The faces of persons shall be recognizable and identifiable by a person of normal vision at a distance of 30 feet at all times. The provisions of the Health and Safety Code shall be applicable where food or drink is prepared or sold.

**§ 5.60.065 Operating Hours.**

Public dances and club dances shall not be conducted between the hours of 2:00 a.m. and 8:00 a.m. on any day. Public dances and club dances held exclusively for persons between the ages of 14 and 18 inclusive shall not be conducted between the hours of 12:00 midnight and 8:00 a.m. on any day.



**§ 5.60.070      Parking Area.**

The parking area of any premises wherein any public or club dance is being conducted shall be lighted to the satisfaction of the city.

**§ 5.60.075      Rules of Conduct.**

The following rules of conduct shall be enforced at all public dances and club dances. The permittee shall be responsible for complying with the rules and removal of all persons who fail to comply therewith, and shall cause the rules to be posted and continually maintained in places designated by the chief of police.

- A.      No disorderly person shall be permitted to enter or remain on such premises.
- B.      Boisterous and obscene conduct is prohibited.
- C.      The use of profanity is prohibited.
- D.      No person shall be permitted to smoke on the premises.
- E.      No person shall loiter or be permitted to loiter by the licensee in the parking lot and/or other areas adjacent to the building on the premises in which a public dance is being conducted.
- F.      The permittee shall not allow any intoxicated person to be admitted or remain at any public dance or club dance.
- G.      Conduct and activity that disturbs the peace and quiet of the surrounding neighborhood shall be prevented and controlled.

**§ 5.60.080      Security Guards.**

A.      The permittee shall provide licensed security guards, in accordance with the following formula:

1.      Inside dance area:

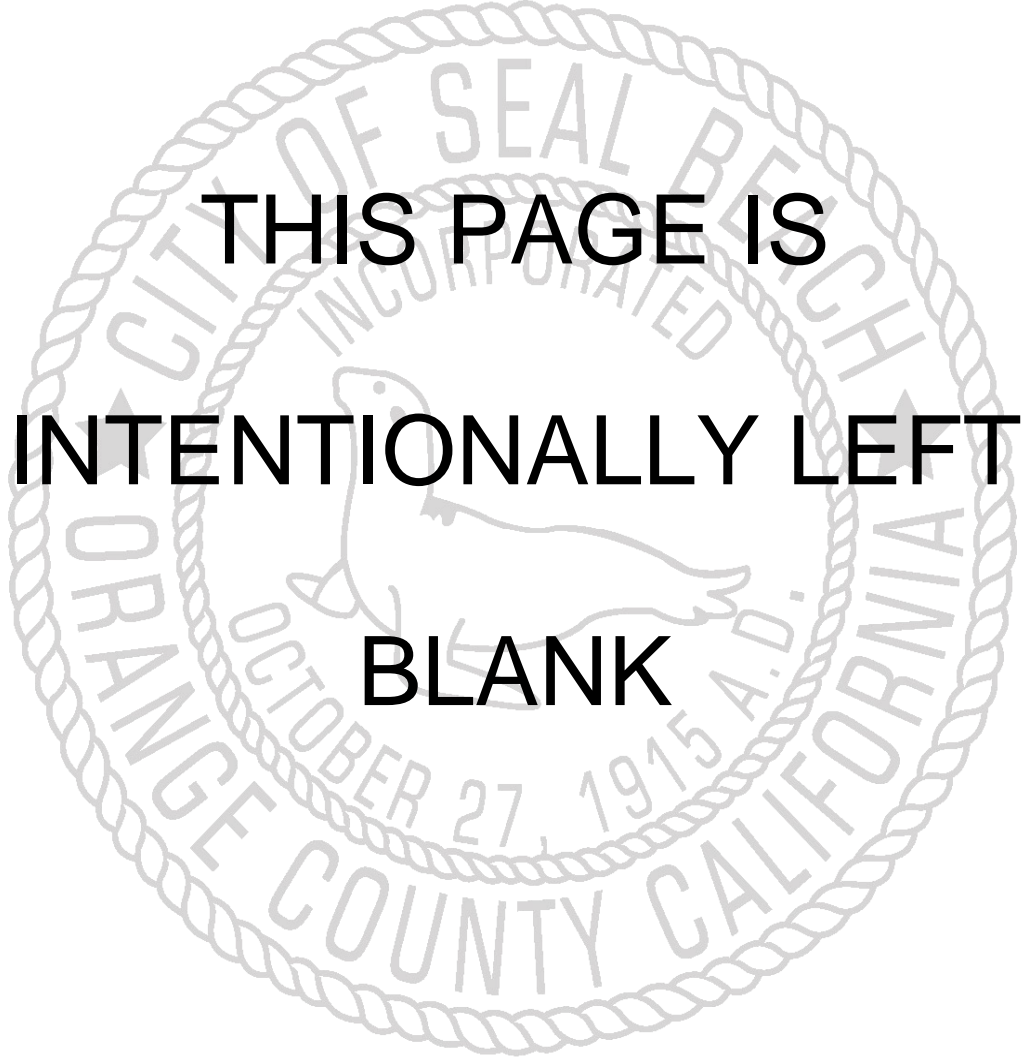
0-100 patrons	2 male guards plus 1 female guard
100-200 patrons	3 male guards plus 1 female guard
over 200 patrons	4 male guards plus 1 female guard

2.      Outside area and parking lot:

0-50 vehicles	1 male guard
50-100 vehicles	2 male guards
over 100 vehicles	3 male guards

B.      All security guards employed by the licensee shall be not less than 21 years of age. The permittee shall not employ any person who has been convicted of any felony; convicted of any drug or narcotic violations or convicted of any crime constituting a sex offense. The permittee shall submit the name, address and date of birth of the prospective security guard to the chief of police no less than 10 days prior to the date of employment, on a form provided by the chief of police.

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## **Chapter 5.65 Taxicabs**

### **§ 5.65.005 Definitions.**

For the purpose of this chapter, the following words and phrases shall mean:

- A. City Authorization: city authorization to operate a taxicab business in the City.
- B. Company Permit: a valid company permit issued by OCTAP authorizing a person to operate a taxicab business.
- C. Driver: a person who drives or controls the movements of a taxicab.
- D. Driver Permit: a valid driver permit issued by OCTAP authorizing person to drive or control the movements of a taxicab.
- E. OCTAP: the Orange County Taxi Administration Program administered by the Orange County Transportation Authority.
- F. Operate a Taxicab: to drive a taxicab and either solicit or pickup passengers for hire in the city.
- G. Owner: the registered owner or lessor of a taxicab.
- H. Taxicab: a vehicle operated within the jurisdiction of the city, capable of carrying not more than 8 persons, excluding the driver, and used to carry passengers for hire. The term shall exclude a vehicle operating as a charter party carrier licensed as such by any state agency, including the California Public Utilities Commission, or any vehicle having a certificate of public convenience and necessity issued by any state agency, including the California Public Utilities Commission.
- I. Taxicab Permit: a valid taxicab permit issued by OCTAP authorizing a particular vehicle to be operated as a taxicab.

### **§ 5.65.010 City Authorization Required.**

- A. A person shall operate a taxicab only if the owner of that taxicab is authorized by the city to operate a taxicab business.
- B. An owner shall allow a taxicab owned by or under the control of the owner to be operated only if the owner is authorized by OCTAP to operate a taxicab business.
- C. City's authorization to operate a taxicab and taxicab business in the city shall be deemed granted provided each driver and taxicab business possesses all required OCTAP permits and each business possesses a valid city business license.

### **§ 5.65.015 Driver Permit Required.**

A person shall operate a taxicab only if that person possesses a driver permit and city authorization has been granted. An owner shall allow a driver to operate a taxicab owned by or under the control of the owner only if that driver possesses a driver permit and city authorization has been granted.

**§ 5.65.020      Taxicab Permit Required.**

A person shall operate a taxicab only if that vehicle displays a taxicab permit and if city authorization has been granted. An owner shall allow a taxicab owned by or under the control of the owner to be operated in the city only if that vehicle displays a taxicab permit and if city authorization has been granted.

**§ 5.65.025      Company Permit Required.**

A person shall operate a taxicab business in the city only if that person possesses a company permit and if city authorization has been granted.

**§ 5.65.030      Application for Permits.**

Application for a driver permit, taxicab permit or company permit shall be made to OCTAP, upon a form provided by OCTAP and shall be accompanied by an application fee sufficient to cover the administrative costs of processing the application as established by the Orange County Transportation Authority.

**§ 5.65.035      Testing for Controlled Substances and Alcohol.**

A driver shall test negative for controlled substances and alcohol as required by any and all applicable and federal statutes.

**§ 5.65.040      Insurance Required.**

A driver operating a taxicab in the city shall at all times carry proof of insurance covering that vehicle, with such policy limits and coverage as established by OCTAP and adopted by city council resolution. Such proof of insurance must clearly identify the vehicle covered.

**§ 5.65.045      Non-transferability.**

No permit issued under this chapter shall be used by or assigned to any person or vehicle other than the person or vehicle named in such permit.

**§ 5.65.050      Equipment.**

A taxicab operated under the authority of this chapter shall be equipped according to the standards established by OCTAP and adopted by city council resolution.

**§ 5.65.055      Mechanical Condition.**

A taxicab operated under the authority of this chapter shall be maintained according to the standards established by OCTAP and adopted by city council resolution.

**§ 5.65.060      Operational Requirements.**

A.      Each driver shall carry each passenger to his/her destination by only the most direct and accessible route.

B.      Each taxicab shall have all permits issued by OCTAP conspicuously displayed according to the standards established by OCTAP and adopted by city council resolution.

C. Each taxicab shall have the following information continuously posted in a prominent location in the taxicab passenger's compartment according to the standards established by OCTAP and adopted by city council resolution.

1. A schedule of rates and charges for the hire of said taxicab.
2. The driver's name and address.
3. The owner's name, address and telephone number.
4. The taxicab identification number.
5. The driver permit issued pursuant to this chapter.
6. The taxicab permit issued pursuant to this chapter; and
7. Any other information required by the city.

D. A driver shall give a receipt for the amount charged upon the request of the person paying fare.

E. A taxicab shall be operated only if the passenger compartment is kept in a clean and sanitary condition.

F. A driver shall not leave his or her taxicab to solicit passenger.

G. The name or trade name of the owner and the number by which the taxicab is designated shall be printed, stamped or stenciled conspicuously on the outside of each taxicab according to the standards established by OCTAP and adopted by city council resolution.

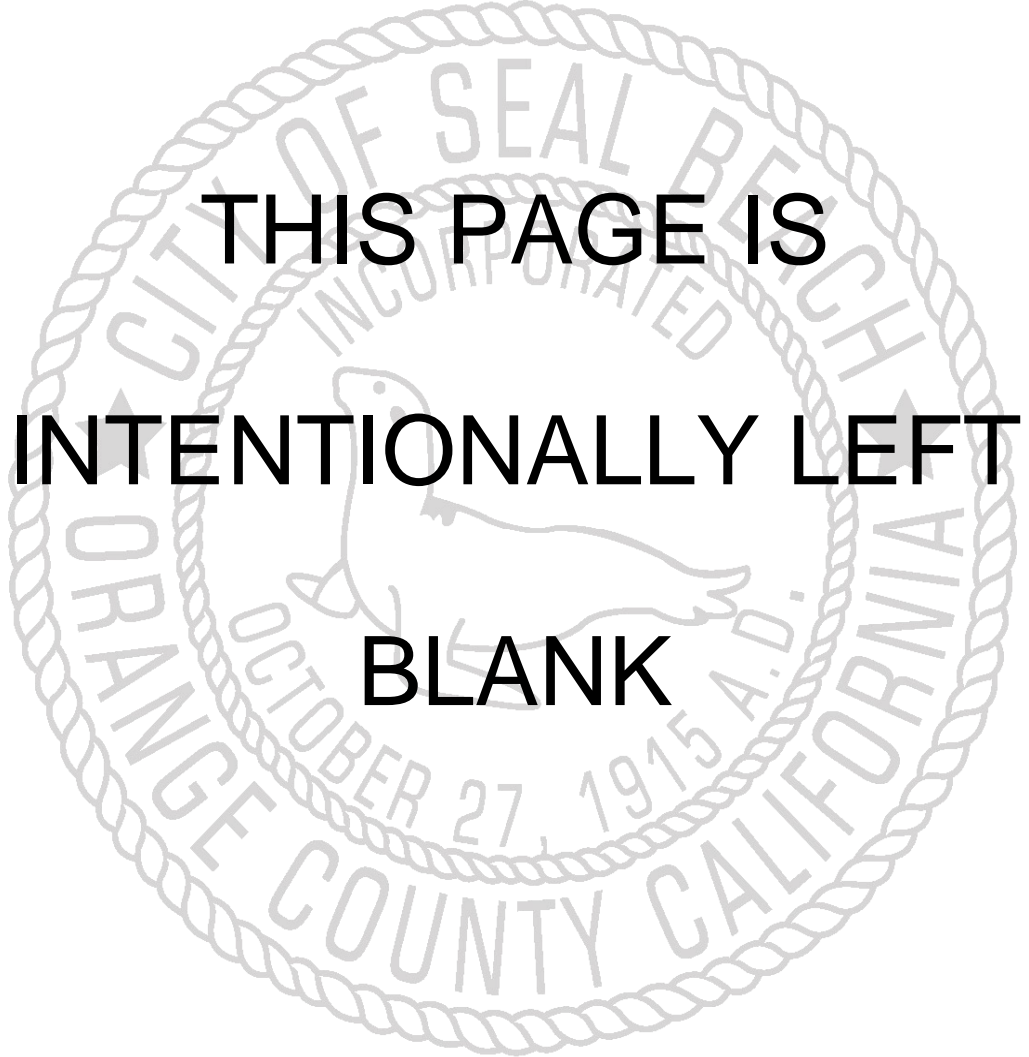
**§ 5.65.065 Rates and Charges.**

No driver shall charge rates or charges other than those established by OCTAP and adopted by city council resolution.

**§ 5.65.070 Separate from Business Licensing.**

The requirements of this chapter are separate from all other provisions of this code, including, but not limited to, those provisions related to business licensing.

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## **Chapter 5.70**

### **Miscellaneous Business Regulations**

#### **§ 5.70.005      Fortune Teller/Psychic.**

A.        No person shall carry on the business of a fortune teller/psychic without first obtaining a fortune telling permit.

B.        For purposes of this section, "fortune teller/psychic" means a person that purports to have extra-sensory powers and that engages in the business of providing forecasting of future events.

C.        A fortune telling permit application shall be submitted to the city manager. The application consists of the application fee and the following:

1.        A city-provided application form containing: (i) the applicant's name, mailing address and phone number; (ii) the address of the proposed business; (iii) the names and addresses of other fortune telling businesses currently operated in the state by the applicant; and (iv) a list of fortune telling-related permits that the applicant currently holds or has had suspended or revoked by another governmental entity.

2.        Two passport-size color photographs that clearly show the applicant's face.

3.        The applicant's fingerprints on a police department-provided form.

4.        A statement signed by the applicant certifying under penalty of perjury that the information submitted in connection with the application is true and correct.

D.        The city manager shall deny a fortune telling permit within 30 city business days of the filing of a complete application if the applicant has knowingly submitted a misleading or fraudulent statement of material fact; otherwise the permit shall be approved. Written notice of the denial of a fortune telling permit, and the reasons therefore, shall be provided to the applicant.

E.        A fortune telling permit shall not be effective until the permittee files with the city manager a bond in the principal sum of \$10,000.00 executed by a corporate surety authorized to do business in this state. The bond shall be given as a guarantee of indemnity for any and all loss, damage, injury, theft, or other unfair dealing suffered by any patron of the permittee.

F.        Fortune telling permits shall be valid for a period of one year. Applications for renewal of a fortune telling permit shall consist of all of the elements of an initial application other than the applicant's fingerprints, and shall be processed in the same manner as initial applications.

#### **§ 5.70.010      Secondhand Aircraft Parts.**

No person shall engage in the business of selling secondhand aircraft parts or accessories without first obtaining a second hand aircraft dealer permit from the chief of police of the city.

#### **§ 5.70.015      Collection Agencies.**

Each collection agency shall deliver to the city clerk a bond in the principal sum of \$10,000.00 executed by a corporate surety authorized to do business in this state. The bond shall be given

as a guarantee of indemnity for any and all loss, damage, injury, theft, or other unfair dealing suffered by any patron of the permittee.

**§ 5.70.020 Entertainment Cafes.**

Entertainment cafes shall be conducted in accordance with the following operation standards:

- A. No minor under the age of 21 years shall be permitted in an entertainment cafe unless accompanied by his parent or guardian.
- B. No entertainment cafe shall remain open between the hours of 2:00 a.m. and 6:00 a.m.
- C. All portions of required parking lots shall be lighted with sufficient lighting to record a light intensity measurement of 1.5 foot candles. All required park lots shall be supervised by the permittee or its agents.
- D. No patron shall engage in and no permittee shall conduct offensive to public decency or morals or any conduct or activity that disturbs the peace and quiet of the surrounding neighbors.
- E. No drinking shall take place on the dance floor nor shall any beverage be transported thereon during the time that any such dance may be in progress.
- F. City representatives shall be admitted without charge at any time for the purpose of inspection to verify compliance with this section.

**§ 5.70.025 Medical Marijuana Dispensaries (Ord No. 1580)**

A. Purpose and Findings.

The City Council finds that federal and state laws prohibiting the possession, sale and distribution of marijuana would preclude the opening of medical marijuana dispensaries sanctioned by the City of Seal Beach, and in order to serve public health, safety, and welfare of the residents and businesses within the City, the declared purpose of this chapter is to prohibit medical marijuana dispensaries as stated in this section.

B. Definitions.

For the purpose of this section, the following words and phrases shall mean:

- 1. Identification Card: a document issued by the State Department of Health Services which identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.
- 2. Medical Marijuana: marijuana used for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other serious medical condition for which marijuana is deemed to provide relief as defined in subsection (h) of Health and Safety Code Section 11362.7, as such section may be amended from time to time.
- 3. Medical Marijuana Dispensary or Dispensary: any facility or location where medical marijuana is made available to and/or distributed by or to three or more of the



following: a qualified patient, a person with an identification card, or a primary caregiver. Each of these terms is defined herein and shall be interpreted in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq. as such sections may be amended from time to time.

4. Primary Caregiver: the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person.

5. Physician: an individual who possesses a recognition in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.

6. Qualified Patient: a person who is entitled to the protections of California Health and Safety Code Section 11362.5, as such section may be amended from time to time, but who does not have an identification card issued by the State Department of Health Services.

C. Medical Marijuana Dispensary Prohibited.

It shall be unlawful for any person or entity to own, manage, conduct, or operate any medical marijuana dispensary or to participate as an employee, contractor, agent or volunteer, or in any other manner or capacity, in any medical marijuana dispensary in the City of Seal Beach.

D. Use or Activity Prohibited by State or Federal Law.

Nothing contained in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law.

**§ 5.70.030 Miniature Trains.**

No person shall engage in the business of operating miniature trains without first obtaining a miniature train permit from the city council. No such permit shall be issued to carry on such business if any miniature train shall consist of more than one motorcar and 3 trailers, or of a total length, including such motor and trailers, of more than 50 feet.

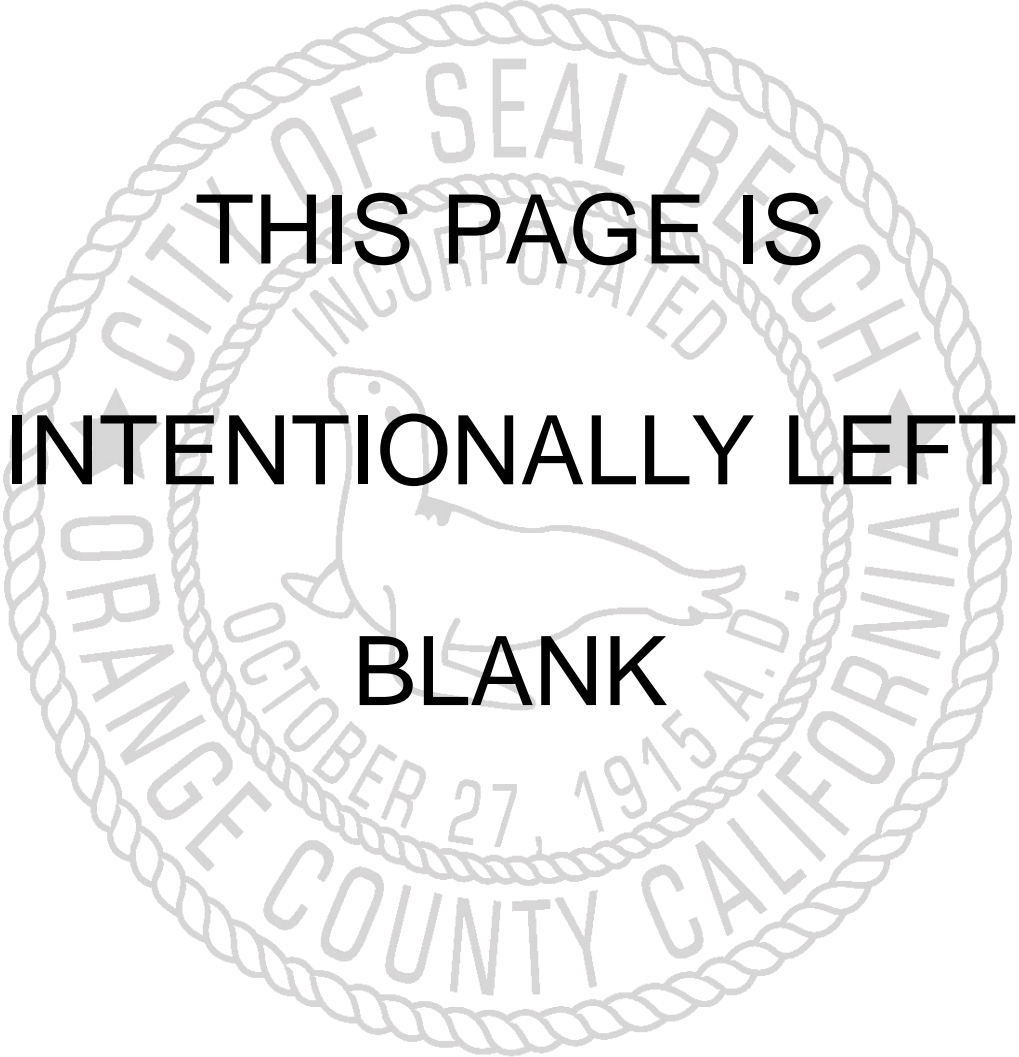
**§ 5.70.035 Peddling and Soliciting.**

It shall be unlawful to peddle any drug or medicine or to go from place to place or from house to house distributing, selling or giving away any drugs or medicines or any sample of any drug or medicine without first procuring a permit from the county health officer to do so and delivering a copy of such permit to the city finance department. The county health officer may issue such permit if upon determining that such drug or medicine is nonpoisonous, harmless and not dangerous to life or health. Such permit shall be filed with the city clerk prior to the issuance of a business license pursuant to this title.

**§ 5.70.040 Shooting Galleries.**

No person shall engage in the business of a shooting gallery without first obtaining a shooting gallery permit from the city council.

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